

January 9, 1990

LB 259, 880, 942, 1051-1056

that Senator Withem and Scotty Moore and others have been working long and hard on that. I'm a little apprehensive in some way, but nonetheless, I know they are working at it and that is good. So without any further comments, I would ask you to support the amendment.

SPEAKER BARRETT: Thank you. The question is the adoption of the Schmit amendment to the committee amendments. All in favor vote aye, opposed nay. Record, please.

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of Senator Schmit's amendment to the committee amendments.

SPEAKER BARRETT: The amendment to the amendment is adopted. For the record, Mr. Clerk, new bills.

CLERK: Mr. President, a few things, yes, sir, thank you. New bills: (Read LBs 1051-1056 by title for the first time. See pages 224-26 of the Legislative Journal.)

Mr. President, finally, I have a hearing notice from the Judiciary Committee for Wednesday, January 17. That is signed by Senator Chizek. (Re: LB 880 and LB 942.)

And the last item, Mr. President, lobby report for November 18 through January 8, 1990. Mr. President, at this time I have nothing further pending to the Education Committee amendments.

SPEAKER BARRETT: Thank you, Mr. Clerk. Senator Withem, would you care to discuss the committee amendments, please?

SENATOR WITHEM: Is this to open the discussion to debate or to close? Are there other lights on?

SPEAKER BARRETT: This is a discussion on the committee amendments. Would you care to...(interruption)

SENATOR WITHEM: I believe I was introduced earlier for my ten minutes to discuss them, so I will just wait and see if other people wish to discuss them and then...

SPEAKER BARRETT: There are no other lights on at the present time. If you'd like to refresh our memories with your earlier discussion, perhaps this will generate some debate.

January 10, 1990

LB 678, 678A, 720, 720A, 742, 1034, 1049-1079

Mr. President, I have a hearing notice from the Government, Military and Veterans Affairs Committee, for the Business and Labor Committee and for the Retirement Systems Committee, all signed by their respective Chairs.

Mr. President, Enrollment and Review reports LB 678 to Select File, E & R amendments; LB 678A, Select File with E & R; LB 720, Select File with E & R and LB 720A, Select File with E & R also, all signed by Senator Lindsay. (See pages 265-66 of the Legislative Journal.)

And I have a reference report, Mr. President, referring LBs 1049-1079. (Also LB 1034. See page 265 of the Legislative Journal.) That is all that I have.

SPEAKER BARRETT: Thank you, Mr. Clerk. Those in favor of the motion to recess until one-thirty please say aye. Opposed no. Ayes have it, motion carried, we are recessed.

RECESS

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Thank you, sir. With a quorum present, we will proceed back to our discussion of LB 742 at which time we were discussing the committee amendments to LB 742. We will return to the speaking order. Correction, we're on a motion to advance the bill. The speaking order beginning with Senator Dierks, if you would care to discuss the motion to advance the bill to E & R, Senator Dierks, followed by Senators Landis, Moore, Smith, Schmit and Bernard-Stevens. Senator Dierks.

SENATOR DIERKS: Thank you, Mr. Speaker and members of the body, I just rise to support Senator Robak's LB 742. I think that... I think these people have a track record that is good and I think we need to honor that. I believe that we do allow people on our roads sometime that maybe shouldn't be there. I don't know how we can stop some of that, but this is some legislation that will allow people to drive again that their track record is proven, they can handle this situation. And they have been kept from this right by the bureaucracy and I think it's time for the bureaucracy to give the right back to them. So I would support 742 and I would urge other people here to do the same thing.

January 10, 1990

LB 662, 662A, 692, 832, 850, 861, 881
896, 952, 965, 1015, 1034, 1055, 1099
1100, 1101
LR 229

that, I hope you will let me know because we are going to take these concerns seriously and draft amendments as required to move this bill and get it to work as quickly as possible out there in the communities. Thank you. I ask you to move the bill.

SPEAKER BARRETT: Thank you. The question before the body is the advancement of LB 662. Those in favor of that motion please vote aye, opposed nay. Voting on the advancement of the bill, have you all voted? Record, Mr. Clerk.

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of LB 662.

SPEAKER BARRETT: LB 662 is advanced. The Chair is pleased to take a moment to recognize a guest of Senator Bernard-Stevens. Under the north balcony, we have from ESU 16, Ogallala, Mr. Ken Wilcox. Ken, would you please stand and be recognized. Thank you. We are glad to have you with us. Mr. Clerk, matters for the record.

CLERK: Mr. President, Senator Weihsing has amendments to be printed to LB 692. I have notice of hearing from Revenue Committee. (Re: LB 850, LB 1015, LB 832, LR 229CA, LB 952, LB 881, LB 965, LB 1034, LB 1055, LB 861, LB 896. (See page 272 of the Legislative Journal.)

Mr. President, new bills. (Read for the first time by title: LB 662A, LB 1099, LB 1100, LB 1101. See pages 273-74 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you, sir. Senator Kristensen, for what purpose do you rise?

SENATOR KRISTENSEN: Mr. Speaker, I would move that we adjourn today until tomorrow morning, January 11th at 9:00 a.m.

SPEAKER BARRETT: Thank you. You have heard the motion to adjourn until tomorrow morning at nine o'clock. A machine vote has been requested. Those in favor of the motion to adjourn please vote aye, opposed nay. Have you all voted? Record, Mr. Clerk.

CLERK: 17 ayes, 13 nays to adjourn, Mr. President.

February 15, 1990 LB 688, 855, 896, 918, 924, 930, 940
969, 970, 972, 974, 1016, 1017, 1055
1094, 1115, 1118, 1222

PRESIDENT NICHOL PRESIDING

PRESIDENT: Welcome to the George W. Norris Legislative Chamber. We have with us this morning, as our Chaplain of the day, Pastor Sid Raymond of the Florence Presbyterian Church in Omaha. Would you please rise for the invocation.

PASTOR RAYMOND: (Prayer offered.)

PRESIDENT: Thank you, Pastor Raymond, we appreciate your being here and giving us the invocation this morning. Please come back. Roll call, please.

CLERK: I have a quorum present, Mr. President.

PRESIDENT: Mr. Clerk, any corrections to the Journal today?

CLERK: No corrections, Mr. President.

PRESIDENT: Any messages, reports or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 896 and find the same correctly engrossed, LB 918, LB 924, LB 930, LB 940, LB 969, LB 970, LB 974, LB 1016, LB 1017 and LB 1118 all reported correctly engrossed, those signed by Senator Lindsay as Chair. (See page 799 of the Legislative Journal.)

Mr. President, an Attorney General's Opinion addressed to Senator Elmer regarding LB 1115. (See pages 800-06 of the Legislative Journal.)

Priority bill designations. Senator Lindsay has selected LB 688, Senator Hartnett LB 1222, Senator Haberman LB 1094, and Agriculture Committee, chaired by Senator Johnson, has selected LB 855 and LB 972 and Senator Goodrich has selected LB 1055. (See page 806 of the Legislative Journal.) That's all that I have, Mr. President.

PRESIDENT: Very good, thank you. We'll go on to the confirmation report.

CLERK: Mr. President, the Health and Human Services Committee, chaired by Senator Wesely, reports on the series of appointments

February 20, 1990 LB 656, 662, 771, 939, 1055, 1079, 1183
1187, 1202, 1221, 1236

PRESIDENT: The bill is advanced. You have an amendment on 915, so we'll not take it up. Something for the record, Mr. Clerk?

CLERK: Mr. President, I have a confirmation report from the Banking, Commerce and Insurance Committee, that's signed by Senator Landis. Revenue Committee reports LB 1202 to General File; LB 939, General File with amendments; LB 1055, General File with amendments; LB 1079, indefinitely postponed. Those signed by Senator Hall. Health and Human Services Committee reports LB 1187 to General File. That is signed by Senator Wesely. I have a series of amendments to LB 1221 by Senator Withem; Senator Smith has amendments to LB 1236; Senator Nelson to LB 656; Mr. President, Senator Wesely to LB 662. And, Mr. President, finally, an announcement from the Speaker. (Re. LB 771.) And that's all that I have, Mr. President. (See pages 874-79 of the Legislative Journal.)

PRESIDENT: Senator Rogers, you haven't said much today. Would you like to adjourn us until tomorrow at nine o'clock.

SENATOR ROGERS: Mr. Speaker, I move we adjourn until tomorrow morning at 9:00 a.m., February 21st.

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. We are adjourned. Thank you.

Proofed by:

Debbie Smith
Debbie Smith

March 19, 1990

LB 220, 551, 1055

CLERK: Mr. President, I do. I have a hearing notice from the General Affairs Committee for certain confirmation hearings. That is signed by Senator Smith as Chair.

Mr. President, Senator Lynch has amendments to be printed to LB 551. Senator Hannibal has amendments to LB 220. (See pages 1445-49 of the Legislative Journal.)


And, Mr. President, finally, I have a request for a motion to be printed by Senator Chambers. (Re: LB 1055. See page 1450 of the Legislative Journal.) That's all that I have.

SPEAKER BARRETT: Thank you. Senator Hefner.

SENATOR HEFNER: Mr. President, I move we adjourn until 9:00 a.m. tomorrow morning, March 20.

SPEAKER BARRETT: You've heard the motion to adjourn until tomorrow morning at nine o'clock. All in favor say aye. Opposed no. Carried, we are adjourned.

Proofed by:


LaVera Benischek

March 27, 1990

LB 1055, 1153, 1153A

CLERK: 26 ayes, 0 nays, Mr. President, on the advancement of 1153.

PRESIDENT: LB 1153 is advanced. LB 1153A.

CLERK: LB 1153A, Mr. President, introduced by the Speaker. (Read title.)

PRESIDENT: Senator Barrett, please, on the A bill.

SPEAKER BARRETT: Thank you, Mr. President. The operative date for the beginning of the new appraiser board is January 1st of '91, so the first year's appropriation is only for implementation and a half a year. I think it's self-explanatory. The A bill provides some money from appraiser license fees, fifteen-six-fifty, I believe it is, 15,650 already in the real estate commission's fund to be transferred over to the appraiser's boards fund. So I would move for the adoption of the A bill.

PRESIDENT: Thank you. The question is the advancement of the A bill. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 29 ayes, 0 nays, Mr. President, on the advancement of 1153A.

PRESIDENT: The bill is advanced. May I introduce some guests, please, in the south balcony Senator Robak has 17 eighth graders from St. Francis Junior High in Humphrey, Nebraska with their teacher. Would you folks please stand and be recognized, from Humphrey. Thank you for visiting us today. Mr. Clerk, shall we move on to LB 1055.

CLERK: Mr. President, LB 1055 was a bill introduced by Senator Hall. (Read title.) The bill was introduced on January 9 of this year, Mr. President, at that time referred to the Revenue Committee. The bill was advanced to General File. I do have committee amendments pending by the Revenue Committee. Mr. President...

PRESIDENT: Senator Hall, are you going to take the committee amendments first?

SENATOR HALL: Mr. President, members, there is a motion, I

think, on the Clerk's desk that deals with the committee amendments. And, I don't know, I don't have any problem introducing the bill, first, and then going to that motion, because it's a motion to divide. If I could, I'd like to at least explain the bill, in general, and then move to the motion, if that's appropriate.

PRESIDENT: That would be fine.

SENATOR HALL: Thank you. Mr. President, members, LB 1055 is one of five bills that was introduced before the Revenue Committee this year that dealt with the issue of gambling and gambling taxes. LB 1055 was one of three bills in particular that dealt with the issue of parimutuel wagering, or horse race wagering. There were two specific bills that, in general, LB 1034, which was the industry bill, and then 1055 which was the bill that I introduced as well. Senator Lynch introduced another bill that dealt with the overall gambling tax at a flat rate of 2 percent. The other bills were bills that I introduced that dealt with the issue of pickle and bingo taxes. What the Revenue Committee did was consolidate portions of some or most of these bills into the committee amendments we now have before us. And the committee amendments do become LB 1055 in their total. So the issue here is the white copy of committee amendments that you see in your bill book, and reference from here on out on this bill will be to that white copy. What we do in the committee amendments is, as I stated, combine the pickle, bingo and parimutuel tax issues into the three different areas, put them together, and we do that for purposes of just dealing with gambling on a level basis. Much criticism over the years has been directed at the fact that the State of Nebraska treats gambling different, depending on what type of gambling it is. Some forms of gambling have been viewed as better forms of gambling than others. What we tried to do as a committee was address this issue, put them together, deal with them as we felt would be appropriate on the floor. Granted, they aren't treated as equally as Senator Lynch would have had it in his original bill, which was a flat tax, but they are treated, I think, in the committee amendments fairly as we'll present them to you. What we do in the handout that I've given to you, that starts out with the committee amendments to LB 1055, and there were approximately nine different pages to it, I think, we deal with three...the three separate issues that are going to be dealt with in the division. And I'm going to take them in the order that I think the division is going to be taken in. We'll deal

first with the bingo tax. And the bingo tax, if you look to item number 4 on the committee amendments handout, it says bingo tax will drop from 10 to 8 percent of receipts, and the 2 percent will be taken away from the portion of the tax that goes to the municipalities and the counties. Currently we tax bingo at 10 percent of gross. We tax no other form of gambling at that high a level. Nebraska traditionally has taxed bingo at 10 percent, but we also have been the highest bingo taxing state in the nation. At 10 percent we far exceed the next lowest state, which is at 6 percent. And the reason for that, if you'll turn to the handout sheet, it's listed as number 4, handout number 4, you see there a bingo history, and it goes back to 1959, when the tax was put at 10 percent of gross proceeds, 5 percent of which went to the city or county, 5 percent went to the state. The reason for that was that the tax was collected by either the city or the county. So they garnered a share of those proceeds, because basically they did the work for the Revenue Department or the Governor's office at that time, which actually revenue...regulated the operation of the pickle and the bingo...excuse me, bingo, at that time. So you had a 50-50 split between the city or the county, whoever was monitoring it, and the State of Nebraska. In 1969, the regulation and oversight was changed to the tax commissioner, the tax was not changed, it stayed at the same split. Also, in '78, regulation was changed to the state treasurer, the split remained the same. In '83, the tax was changed, there was basically a total rewrite of the charitable gaming provisions in the statutes. The tax was increased to the state, reduced to the cities and the counties, and the regulation then went to the Bingo and Pickle Card Regulation Commission, which has evolved now into the Charitable Gaming Division of the Department of Revenue. In 1986, again, that change to the division was made, but the split stayed at 60-40. Since, and even in 1986, there have been a number of changes, a number of bills introduced to reduce the amount of tax that goes to that local subdivision, whether it be the city or the county. The purpose for that is that since the change was made with regard to the collection of the tax, so that the city or the county no longer had to collect that tax and then submit it to the state, there...and that was one of the purposes for the reduction in the shift, at the time, that was made from 50-50 to 60-40, the state collected a greater share because they had complete control and oversight. Each year for at least the six years that I have been here there has been legislation introduced that dealt with reducing the amount that goes to the local subdivisions. The total amount that the

local subdivisions get, in the form of the 40 percent that we're currently at, is approximately \$880,000. What the committee amendments would do is reduce that by half. We would take the 4 percent, reduce it to 2 percent, thus we would cut that revenue by \$440,000, \$440,000 statewide. Of that \$440,000, the City of Omaha represents over half that, it is approximately 240 to 280 thousand of that 440. So, the folks that would be hit the greatest would, of course, be the City of Omaha. I think the City of Lincoln represents approximately another \$40,000, so you would be looking at approximately 300 to 320 thousand of the 440 coming out of the City of Omaha and the City of Lincoln, the balance would be spread across the state. It's my feeling, and I think it was the feeling of the members of the committee when we adopted the amendment, that the tax on bingo, because it is the most extensive in the country, as well as the fact that there is little or no oversight, no oversight or regulation on the part of the local subdivisions, that it was time to reduce that tax. We felt that if it was time to look again at a reduced tax for gambling in terms of parimutuel wagering, that we ought to take a look at all gambling taxes, and to try to bring them more in line with what is the norm, not only across the country, but what we do within our own state when we look at gambling as it relates to horse racing. And that is the reason for the first portion of the committee amendments that we'll deal with, the reduction in the bingo tax from 10 to 8 percent. The second portion of the committee amendments, that we'll deal with after the division, is the pickle tax. If you'll stay on that same page, page number 4, you can see the pickle history as it's spelled out. And it also deals with 2 percent of gross proceeds when it was initiated in 1983. In 1986, that was increased to 3 percent of gross. And in 1988, we had a total rewrite, well it was in 1987, a total rewrite of the regulation and oversight of the pickle card industry because of problems, frankly, that the industry had. Part of that was a tax that was 20 percent of definite profit, it was basically a punitive tax,...

PRESIDENT: One minute.

SENATOR HALL: ...placed on the industry for purposes of trying to just outlaw as much of the industry as possible. The 20 percent of definite profit was reduced, last year, to 13 percent of definite profit. What the committee amendments would do is reduce that again to 10 percent of definite profit, which would bring the tax back to just a little more than the

tax was at 3 percent of gross proceeds prior to the restructuring regulation, the limitation on the bingo...or, excuse me, the pickle industry prior to the passage of the 1987 law. So we would be bringing it back into line to where it was prior to the cleanup. It will still remain at a higher level than it was, and we also adjust, in that same committee amendment, the distribution of the proceeds of that tax to the Charitable Gaming Division so that there is no loss in revenue. As you all know, they are cash funded out of that tax that is placed on the pickle and bingo cards as we levy it, the balance of which then flows into the General Fund.

PRESIDENT: Time. Senator Chambers, I wish to recognize you on the division of the question situation.

SENATOR CHAMBERS: Yes. Mr. Chairman and members, those who are interest, if you'll turn to the Journal, on page 1450, you will see the way I would like to divide the question. They are listed with three capital letters, A, B, and C. Under capital letter A, would be Sections 1 and 2, and I would also add Section 9, which is the emergency clause that should be associated with the horse racing aspect. So, Sections 1 and 2 would deal with horse racing. Section 4 would be the second division, which deals with the local bingo tax. Then Sections 3 and 5, that deal with the pickle card tax, would be the third division. And that is the way I would like the Speaker to divide the question.

PRESIDENT: I don't see any problem with that, do you, Senator Hall?

SENATOR HALL: Mr. President, no. Clearly the committee amendments are divisible. I would only ask that they be taken in the order of B, C and A. In other words, bingo, then pickles, and then the issue of the racing.

PRESIDENT: I see no problem with that, do you, Senator Chambers?

SENATOR CHAMBERS: No.

PRESIDENT: Okay, we'll divide it then. Section B we'll take first, which will...number B we'll take first, which are Sections 4; and, second, we'll take Sections 3 and 5; and, thirdly, we'll take A, which is 1 and 2.

SENATOR HALL: Okay.

PRESIDENT: And 9, which is emergency clause. So now we're talking about the bingo tax, which is Section 4. Senator Hall, did you wish to speak further about that particular portion,...

SENATOR HALL: Sure.

PRESIDENT: ...at this time?

SENATOR HALL: Why not. Thank you, Mr. President and members. Again, this is the section, as has been pointed out, deals with the bingo. I would urge you to take a look at page 4, again, the bingo history aspect of that handout that you have before you. All we do in this is take 2 percent of the tax away from the cities. It sounds onerous when you say we're going to take a taxing base away from the local subdivisions of government. But really outside of the City of Omaha, the City of Lincoln, you're talking approximately about \$100,000 that is spread out across the remainder of the state. It is not a large dollar item for any of the cities. And the argument has always traditionally been that, but it's \$3,000, or it's \$1,500 that we depend on in our budgets. And, ladies and gentlemen, I would argue that it is a tax that is unfair. It is a tax that the cities or the counties do nothing to achieve. When it was originally put into place they did, they worked very hard, basically they functioned as the Revenue Department because they collected the tax. That no longer is the case, that no longer is the case. And the only people that suffer from this tax are those local charities, those schools, those parishes, those fire departments, the local elderly groups that run a bingo in order to raise funds so that they can operate their not for profit organizations, but yet they pay the highest tax in the country for that privilege, and that's a 10 percent tax 4 percent of which, 40 percent, which goes to the local entities who do absolutely nothing in terms of regulation and oversight. They don't any longer collect that tax and send it to the Department of Revenue. Now, we have talked about this issue for at least six years, six different terms that I have been here, and I think that it is important that we allow these charities to continue to keep those funds in the form of 2 percent. Doesn't sound like a lot when you're talking about less than half a million dollars. We offer amendments to the budget bill of that amount and don't think twice about it when they're adopted and

March 27, 1990

LB 1055
LR 11

we build them into an ongoing budget. But in the case of many of these charitable organizations, when you're talking about \$1,500 to a local community, that could be divided up five or six different ways, depending on how many bingo games are being run in that community. It might only be two or three hundred dollars to that local entity, that local charitable organization, but that means a lot to them. That's two or three hundred dollars that they can continue to spend to have that organization provide whatever services they may in the area of not for profit resources. In the case of what I'm most familiar with in my area, we have a number of parishes that operate private schools, that unfortunately they depend on this revenue in order to continue to function. They have to do it to keep down their costs to also keep up with costs that they have no control over, costs such as utilities, that they have to continue to pay and still provide a benefit to the local subdivisions in the form of educating kids, that otherwise would fall into the school system, at a much greater cost than this 2 percent reduction in tax could ever amount to. We're talking about \$440,000 to not for profits, that will generate, if you were to look at the goods and services that are provided to the communities, millions and millions of dollars that the local subdivisions would have to pay, they would have to raise in the form of taxes in order to offset what happens, what services are performed by those charitable organizations should they go out of business. And, ladies and gentlemen, they're a business just like any other business we deal with. When we talk about taxes for business, we always talk about taxes in the form of we want to enhance business, we want to enhance those businesses so that they can grow and prosper. Well, the same thing is true for not for profits, they're a business. And this very small amount of money, \$440,000, the 2 percent reduction in the tax, would enhance those businesses. They provide services that, should they no longer provide them, they will have to be picked up at a much greater cost by those local subdivisions. I would urge you to support this portion of the amendments. Yes, it does amount to money. Yes, money is always a critical thing for local subdivisions. But we just advanced over, a couple of bills back, a...LR 11CA, and it allows us to raise taxes at the local level through a vote of the people for economic development, those types of things. I would argue that the reduction in the bingo tax is just a grade, a form of economic development as 11CA. As a matter of fact, it's a proven economic development factor, because we often talk about all those things that not for profits do in the community that make our communities that

much better. There clearly is important a factor on the balancing scale as those businesses that provide jobs. And this very, very small token on the part of the Legislature, to allow those people to retain a little bit more of the funds, I think would be...I know would be much appreciated, and would be a very fair way to deal with the issue of taxing bingo. I would urge your adoption.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Thank you. Discussion on the divided question, first part. Senator Nelson, followed by Senator Labeledz.

SENATOR NELSON: Mr. Speaker, just a quick clarification. On the first page, committee amendments, 1055, Tim or Bernice, would somebody...Tim's busy. Would you help me out on this? Number five, the pickle tax, and I'm not criticizing, I'm not prov...anything else, I'm just simply asking a question.

SENATOR HALL: Yes.

SENATOR NELSON: The pickle tax will decrease from 13 percent of definite profit to 10 percent of the definite profit. This would...

SPEAKER BARRETT: Excuse me, I believe that we're on the section dealing with local bingo tax, are we not?

SENATOR NELSON: Well, I thought your amendments...

SENATOR HALL: That's my understanding, but...

SENATOR NELSON: All right.

SENATOR HALL: ...but I'd be happy to answer the question for you.

SPEAKER BARRETT: Answer the question, please.

SENATOR NELSON: Answer the question, please.

SENATOR HALL: Sure. And I appreciate that, Senator Nelson. Section 5 has a rather large typo in it in that the...

SENATOR NELSON: Okay, that's my question.

SENATOR HALL: And it should be \$750,000 and not 75 million, because we only raise approximately 7 million dollars, total, in the area of this tax. So, it's a typo that was brought to my attention by Senator Byars this morning.

SENATOR NELSON: Thank you. I just thought maybe I missed something.

SPEAKER BARRETT: Thank you.

SENATOR HALL: No, I...

SPEAKER BARRETT: Senator Labeledz, followed by Senator Schmit.

SENATOR LABEDZ: Thank you, Mr. President. I rise in support of amendment B, I guess, according to the division of the question. I don't have too much to add to what Senator Hall had to say, but I do know that the bingo tax is very, very important to many of the organizations in Omaha, and I'm sure in the rest of the state. We have a problem, as you know, we have LB 346, which is a tuition tax credit for any parent that sends their children to private schools, and unfortunately that did not advance the other day. Many of the private schools do depend on their bingo proceeds to support the schools. And in most cases the parents are having to come up with the high tuition, in addition they also have to pay a high property tax. As Senator Hall mentioned, the city itself will be the one is...that will be the loser. And, if I remember correctly, and I said this before on the floor, when I was the bingo tax inspector for the Department of Revenue, way back in the sixties and early seventies, the State of Nebraska did all the work, and the city...the cities and counties were the ones that got a great cut of the proceeds from bingo. Bingo to the organizations, the Little League's, the senior citizens centers, and the schools and many other organizations worthwhile, the Veterans, the UNO, I believe they probably only sell pickles, I don't think they have bingo, but I am speaking for both, I support both the decreases, not only for the bingo tax but for the pickle tax. And I urge you to adopt this amendment, and I will be speaking on the pickle amendment later on. And, of course, I also support the definite tax break to continue for Ak-Sar-Ben. I have a letter, that I will read later on, from a young...not a young man, a man that has been working for Ak-Sar-Ben for many years, and there are at least

March 27, 1990

LB 1055
LR 239, 397-400

2,000 jobs that are connected with Ak-Sar-Ben, so all three, LB 1055, as amended by the committee, is definitely a very good, good bill and, hopefully many of the senators, enough senators here will agree and not only vote to advance or adopt A, B, and C, which will be the total of LB 1055. Thank you.

SPEAKER BARRETT: Thank you. Senator Schmit.

SENATOR SCHMIT: Mr. President, I move that we recess until one-thirty, please.

SPEAKER BARRETT: Do you have anything for the record, Mr. Clerk?

CLERK: One item, Mr. President. Amendments from Senator McFarland to LR 239CA. That's all that I have. (See pages 1627-28 of the Legislative Journal.)

SPEAKER BARRETT: You've heard the motion to recess until one-thirty. All in favor say aye. Opposed no. Ayes have it, the motion carried, we are recessed.

RECESS

PRESIDENT NICHOL PRESIDING

CLERK: I have a quorum present, Mr. President.

PRESIDENT: Thank you. Do you have anything for the record, Mr. Clerk?

CLERK: I do, Mr. President. New resolutions. (Read brief summary of LR 397-400. See pages 1629-31 of the Legislative Journal.) That's all that I have, Mr. President.

PRESIDENT: If I could have your attention a minute, Senator Labeledz has a group of students in the south balcony. There are 57 fourth and fifth graders from Holy Ghost School in Omaha accompanied by their teacher. Would you students and teacher please stand so we may recognize you. You're a nice looking group and we're happy to have you here today. You may be interested to know that the Legislature, in a moment or two, will be talking about bingo and what the state has to do with

bingo. So, you hit us at a good time. Thank you for being here. Mr. Clerk, where were we?

CLERK: Mr. President, the Legislature was discussing the committee amendments to LB 1055. The amendments, pursuant to a request from Senator Chambers, had been divided. The first portion of the committee amendments, Mr. President, dealt with the bingo tax. That is currently before the Legislature.

PRESIDENT: Thank you. Senator Hall, you're up next, if you...

SENATOR HALL: Just...thank you, Mr. President, members. Just briefly, refresh the memory of the members of the body. This portion of the committee amendments deals with the reduction in the bingo tax from the current 10 percent of gross to 8 percent. The 2 percent portion that would be reduced would come out of the local city or county portion which makes up, currently, 40 percent of that overall tax. It would be a total overall statewide cost of \$440,000, nearly 300,000 of which would come out of the City of Omaha and the City of Lincoln, it...the balance of which, approximately 130 to 140 thousand dollars, spread across the rest of the state. It is a question of whether or not we feel that these dollars should go back to the charitable organizations, because the reduction in the tax itself would mean that the 2 percent on the gross that was not collected would go back or flow back into the hands of those charities, the schools, the parishes, the not for profits, the VFW's, the volunteer fire departments across the state that currently use these funds to provide for operating expenses. I would urge the adoption of the first portion of the committee amendments.

PRESIDENT: Thank you. Senator Landis, please, followed by Senator Smith and Senator Lynch.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I intend to support LB 1055 and all three of the portions of the amendments. I have historically voted against, as you know, this session LB 346, that is the idea of private school tuition tax credits. In fact, that measure is not only for private schools but for public schools as well, and my argument on that point has been, not only that it has been found to be unconstitutional by the State Attorney General, but that it gives six of every \$10 of tax credit in relief to the private schools, but that \$4 of every \$10 would not go to private

schools, but would go, basically, to public school parents who have no need for the tax credit. That having been the case, however, let me say that I am not blind to the need for ways of supporting our existing parish schools. They serve a legitimate educational purpose. They offer a high quality of education, and in the event people are committed to making those schools work, they should flourish and survive. It is not uncommon for both the bingo and the pickle tax to serve as a way of diverting income to private schools into the hands of the state or local government. And while in the past I have been very tough on criminal sanctions, criminal violations, and the misuse of those forms of charitable gaming, when they are appropriately used, it seems to me legitimate to tax them at a level that is not confiscatory. By voting for the reduction of the bingo tax, this is a small adjustment I think that we can legitimately make to allow money to go towards private school education. I intend to vote as well for the pickle tax reduction, although I will tell you this. I remain committed to the idea that the state should be vigilant for pickle card violations. Those are occurring. They are occurring in five and perhaps six figure amounts. Our own Revenue Department recently brought a lawsuit charging an Omaha firm operated by John Jefferson with criminal activity in the operation of bingo, and so there are problems in the bingo and pickle area. On the other hand, when legitimately run, these games do provide relief for private schools and for a wide variety of other charitable purposes. It seems to me that this is the way that I can legitimately inside the Nebraska Constitution and inside my own sense of what is legitimate public policy to find a way to allow public or private schools, rather, to flourish and survive. I would suggest to you that the measures are not that costly, either to the state or to local government. I would suggest to you that it seems to me reasonable that this is the change that we make to give some tools to private schools with which to fight for their life, or with which to flourish, depending on what characterization you think is appropriate for the status of private schools in this state. One of the reasons I like it is because it is based not on the tax code, not on giving credits, but on people going out and asking for and getting charitable contributions in the form of operating pickle games or bingo games. It is a way of voluntarily allowing people who are committed to making these institutions survive to go out and do the work of seeking community support, and that to me is a reasonable burden to place on them. Having placed that burden on their shoulders, the tax rates, it seems to me, should be reasonable and not

onerous. This represents somewhat of a change of view on my part in that in the past I have voted for the highest possible levels of taxation of these forms of gaming. My change of heart comes about, however, because we have sufficiently given resources to our Revenue Department, it seems to me, to attack criminal behavior. Our laws are pretty tough, and at the same time as these amendments are going forward, representations were made to me by Senator Hall that he was no less vigilant and concerned about the fair operation of these games, that he would join in an attempt to make sure that our state laws were tight so that control for inappropriate behavior could be had. With that kind of an assurance, it seems reasonable to go forward then and to match that with bringing down these tax rates and allowing private schools and other charitable operations to receive the benefit of the labor. It is entirely possible for some of the smaller bingo operations to go through a great deal of effort, a great deal of work, and get very little return on their effort, given the economics of the business, and this is a way to put money into the hands of people who are doing good things, probably saving us money that would otherwise be spent in the form of public expenditures, and for that reason, I have no difficulty in attaching this amendment to the bill and to support the reduction of the bingo tax and the pickle tax.

PRESIDENT: Thank you. Senator Smith, please, followed by Senator Lynch and Senator Warner.

SENATOR SMITH: Thank you, Mr. President. I also stand to support the Section B, and I guess I would say that I will support probably the entire amendment, and if the amendment is adopted, the bill, itself. Senator Hall has already summarized very much in detail the history of bingo taxation and its current status resulting from the actions that we have taken on the floor in the past and the fact that it is now being regulated by the Charitable Gaming Division. There will be a reduction in the local tax from 4 to 2 percent. This will result in about \$440,000 annually lost to the subdivisions, the communities, themselves, but allowing that bingo activity is conducted for purposes of charity which actually benefits then the communities, themselves, and the organizations within the community, I think that this seems fair. The General Affairs Committee has heard a number of bills dealing with bingo, pickle, and that sort of thing, operations and the concerns that have resulted from the past action that we took on this floor when we tightened up on the bingo, for instance, the bingo law.

And the...and I think Senator Lynch will probably talk a little bit about some of the things that have resulted to the charitable organizations that we did not really intend, and I just wanted to make it very clear that the stand of myself, as the Chairman of the General Affairs Committee, is in support of this because we do retain enough money to regulate and that is an issue that we might want to look at again next year, too, when we look at all of gaming and gambling activity. But, nevertheless, I think that this is fair and I will support it. Thank you.

PRESIDENT: Senator Lynch, please.

SENATOR LYNCH: Mr. President, and members, I would like to also rise to support the amendments as described and the bill providing the amendments are on there in 1055. It was mentioned with the horses that there are about 2,000 jobs involved and it is an important part of our economy, and we should, in fact, provide within this state a system where a...which would normally be a tax collected and given to the state would be given back to the industry, ala LB 775, so that they continue to function for all of the good reasons and the right reasons, which I agree with, like, for example, the tourism and the motel rooms, the meals that are purchased and the rest. I would like to suggest that over lunch I wrote down some of the charitable gaming institutions I just have in my district, and I guess you could multiply this 50 times and sometimes even more than that. I have got three churches. I have got three veterans groups. I have got two private clubs that work with pickles or bingo, one way or another, and a conservative count of the people involved in that are 67. Now in case you say, well, those 67 people don't work year-around so that isn't a real number. Well, most do. Teachers work year-around, they teach school, they go to school in the summer, whether you are teaching in a private school or in a public school. But on the other hand those people that work the dog tracks or the horse tracks, I should say, don't work year-around at all. They work in those areas and at those tracks where, in fact, and when only, in fact, those tracks are open. This is one of those equity issues, it seems to me, and a very small price to pay, indeed, to help people who are trying to help themselves sustain these very good causes. For too long a time we allowed a serious discrimination against charitable gaming as compared to the thoroughbred racing. I think we should begin to think in equal terms and fair terms regarding both and apply the same principles to both.

I want to congratulate and thank Senator Smith. I wasn't going to go into any detail, Senator Smith, about the tax bill I had. It is not important at this point in time. Obviously, this is a far cry from that and a serious compromise when you consider what I suggested as compared to this, but it is reasonable, and it is a good start. I appreciate her support. I would hope that the body would all support all of these amendments, and then the bill.

PRESIDENT: Thank you. Senator Warner, please, followed by Senator Labeledz.

SENATOR WARNER: Question.

PRESIDENT: The question has been called. Do I see five hands? I do, and the question is, shall debate cease? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 26 ayes, 2 nays to cease debate, Mr. President.

PRESIDENT: Debate is ceased. Senator Hall, would you like to close, please?

SENATOR HALL: Thank you, Mr. President, and members. I'd rather...I would rather wait until we have a few more members, Senator Warner, but if I can't, I will close. Ladies and gentlemen, the issue here clearly is one of do we bring the pickle, excuse me, the bingo tax in line with (a) what happens in other states, because I have stated in the opening the next highest tax state is approximately 6 percent? Nebraska has been at ten. Do we bring it in line with the way that we tax other gaming? I think we do. The committee has advanced this portion of the amendments because of that. We have looked at it and said that, no, we don't feel that it would be appropriate to strip the entire amount of money that the cities and the counties receive. That was the introduction of the bill as I brought it to the committee. We amended it to provide that only 50 percent of that, a bill very similar to this provision, LB 775 is currently setting on Select File, and what we do with this amendment is strictly only the 2 percent reduction that would go to the local subdivisions that would be involved, either the city or the county. I would urge the adoption of this portion of the committee amendments. Mr. President, I would ask for a call of the house.

PRESIDENT: The question is, shall the house go under call? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 26 ayes, 1 nay to go under call, Mr. President.

PRESIDENT: The house is under call. Will you please record your presence? Those not in the Chamber, please return to the Chamber and record your presence. We are looking for Senators Kristensen, Scofield, Senator Lamb, Senator Barrett, Senator Moore, Senator Conway, Senator Dierks. Looking for Senator Lamb, Senator Schmit, and Senator Wesely. While we are waiting, I would like to introduce some guests, in the south balcony, of Senator Langford. We have 40 seniors from Gibbon High School with their teacher. Would you folks please stand and be recognized by the Legislature. Thank you for visiting us today. Still looking for Senator Lamb. Senator Hall, we are waiting for Senator Lamb. Do you wish to wait further or shall we go on?

SENATOR HALL: Mr. President, why don't we go ahead and take a roll call vote.

PRESIDENT: He is here now, so okay. The question is the adoption of the (B) section of the committee amendments, and we are going to have a roll call vote. Mr. Clerk.

CLERK: (Roll call vote taken. See pages 1631-32 of the Legislative Journal.) 32 ayes, 5 nays, Mr. President, on adoption of the amendment.

PRESIDENT: The (B) section of the committee amendments is adopted. We will move onto Section (C) now. The call is raised. Senator Hall, please, do you want to proceed with Section (C).

SENATOR HALL: Thank you, Mr. President, and members. The second portion deals with the decrease in the pickle tax from 13 percent of definite profit to 10 percent, and also deals with, if you are looking at the first page of the handout with regard to the committee amendments, the increase in the portion of the Cash Funds that would go to the Charitable Gaming Commission with regard to offset of their cost. As you know, that provision of the Department of Revenue is cash funded. It would increase that from 35 to 40 percent. The amendment would

reduce the amount of money to the General Fund. That is, when I stated in my opening, that is the impact of what this reduction in the pickle tax would have, from 13 to 10 percent of definite profit. Remember back in 1987, it was alluded to by both Senator Smith and Senator Landis and others that we had a serious problem in the area of pickles. We had a provision in our statutes that allowed, basically, what were termed then "pickle parlors". We had some folks in that operation that were less than honest and we went about through the efforts of then Senator Morehead, and subsequently Senator Smith, the General Affairs Committee, and to date with Senator Smith and General Affairs Committee of cleaning up those operations. Part of that cleanup was strengthening the oversight, the regulation, tightening up reporting requirements, tightening up those organizations or outlets, type of outlets that would be allowed to sell pickle cards. We did that, and along with that, we placed a 20 percent tax on the definite profit. So, in other words, a nickel out of every dollar that was...excuse me, 20 cents out of every dollar that was collected was paid in the form of tax, and that was done basically as a punitive measure. There was nothing hidden about the fact that we were going to take a very hard stand in this area. We were going to clean it up and see what happens after that. Well, what happened is we came in and we reduced the tax to 13 percent of definite profit because, frankly, the regulation and oversight measures that we put into place were working. The continued regulation on the Department of Revenue and, specifically, the Gaming Division was excellent. They have done a tremendous job, not only working with the charities that are out there trying to abide by the law, doing a good job, but even with the organizations that I think have stonewalled them to some extent. They have been very straightforward in their approach. They have come back to the Legislature, specifically Senator Smith and the General Affairs Committee, and asked for more regulation and oversight. As Senator Landis alluded to, I have...am more than willing to make sure that this provision, charitable gaming, the pickle card source of revenue, remains intact for those organizations, those charities who continue to do a good job, that do abide by the laws of this state. There is no love lost and no support on my behalf or those organizations that I represent that want to see this source of revenue not ruined, not dried up by a few bad apples, and I will continue to support those forms of regulation and oversight that the Gaming Division feels they need that make sense, that provide for a system of oversight, regulation, reporting, and taxation that (a) provides the revenue necessary

to cover the cost and (b) flows any revenue over and above that into the General Fund. If you look at the handout again that we've passed out to you and you look at page 4 of that, we get into the pickle history, and it shows the change in the tax rates, and down at the bottom it shows the tax receipts that were collected. And it shows the rise and then ends in 1988 where the taxes collected total over \$6.5 million. Well, with this reduction in tax, that very likely is going to take a hit and the hit is estimated to be approximately \$750,000 over the '90-91...excuse me, \$550,000 over the '90-91 and approximately, and these are figures from the Fiscal Office of the Legislature, a little over \$825,000 for '91-92. That takes into consideration no growth in the area of pickle card sales. It takes in none of the increases that have taken place. If you look at that same page 4 again, as I showed you, from approximately 1986 through 1988, we do not have figures yet at the time this was compiled for 1989, but we would clearly be well ahead of what we had anticipated in the past. What we found out was that through the regulation and oversight we collected, basically, more tax. We have fewer outlets, yes, and that we think will be reflected in the '89 figures, but we will clearly have enough money to pay for the Gaming Division in the Department of Revenue, but there will be an impact on the General Fund. There will be approximately a half a million dollars in the '90-91 year, because if you look at the committee amendments as they are drafted, these provisions in both the bingo and the pickle do not take place until October 1. The change would not take place until October 1. That is a date at which all the licenses come due and are renewed by the Gaming Division of the Department of Revenue. In order to implement the change, we structured it so that it would fall in line with the new year under their organizational structure and that is an October 1 date, so it would be an October 1990 date that these changes would take place. So that first dollar figure, \$550,000, reflects only three-quarters of the year. The balance, then, the \$800,000 figure would be for a full fiscal year for the state that would be lost to the General Fund. With that, Mr. President, I would urge adoption of the second portion of the committee amendments.

PRESIDENT: Thank you. Senator Crosby, please, followed by Senator Chambers.

SENATOR CROSBY: Thank you...thank you, Mr. President, and members. I would like to speak about two things that haven't

been mentioned yet, and this applies to the pickle cards and the bingo games and I did appreciate what Senator Landis said about the support of schools and other projects that the charitable organizations and nonprofit organizations that use these methods of bingo, and particularly most of the time a harmless form of evening's entertainment for a lot of people. I don't happen to be one of those that love to go and play bingo but I know a lot of people that do. But there is two things, in the first place, that haven't been mentioned, and I am going to vote for these amendments, I voted for the other one, because even though the places where they hold the bingo games are policed by the Revenue Gaming Commission, the Revenue Department's Gaming Commission, they are also the beneficiaries of the services from the safety departments, the Fire Department, and the Police Department, and so on. If there were a fire at one of the churches during a bingo game or something like that, the Fire Department would come, and, of course, the city pays for that. City...a lot of city taxes pay for that. The other thing is one of our churches in Lincoln I am sure was very happy to have the police come out when they had the bingo money robbed one night last year. Right after the games, some armed robbers came in and held the people that were there and took the money. So from that point of view, I don't think we should just look at it, well, too bad, the cities don't get the money. Comparatively speaking, it is not a lot of money that the cities will not get, and that is one of the reasons I'm going to...I'm voting for these amendments. But the other thing is that most of you have read in the newspapers about the Internal Revenue Service putting the threat now that they are going to...in fact, I think it is even more than a threat...that they are going to ask for taxes from those nonprofit organizations, back taxes, to pay for their earnings that they made on this, which fair or not, and I don't think it is fair, is a threat and a shadow, and every little bit of this kind of help will help them and if they have to meet that obligation. I hope that is worked out so they do not. There is a bill in Congress, of course, which would help in the future. I don't think it will be retroactive or anything. So I just thought we should mention these two things. There is more to it than meets the eye, and all of these organizations, the...I think there is some veterans organizations and so on, that use these methods of raising money through an entertainment procedure to help on their projects. And many of them, those in particular, not just the churches and so on who support schools and so on, those other organizations do tremendous work in helping different projects and helping

people with things that maybe the government or that they can't pay for themselves. So for that reason, and I just wanted to bring those things to your attention, I am supporting the amendment. Thank you.

PRESIDENT: Thank you. Senator Chambers, please, followed by Senator Nelson.

SENATOR CHAMBERS: Mr. Chairman, and members of the Legislature, I am not supporting the amendment. Usually, I avoid asking Senator Hall questions on issues like this because he is so straightforward and direct, but I can't avoid it today. I have got to ask him a question or two. Senator Hall, currently, what is the take that the suckers get? What percentage of the take goes to the suckers?

SENATOR HALL: Senator Chambers, if you are asking what percentage of the payout is available to those individuals who play pickle cards, I think we currently have it up to 75 percent. It...there is a range in which they have to pay, and I don't think it can fall below 65, but I will find out for you...the absolute number in just a second.

SENATOR CHAMBERS: Okay, but the house rakes off a goodly portion?

SENATOR HALL: Clearly there is a portion that goes to both the state and to the charitable organization who operates the game, yes.

SENATOR CHAMBERS: Is bingo and are pickle cards gambling?

SENATOR HALL: Oh, absolutely.

SENATOR CHAMBERS: Are children allowed to participate in these activities?

SENATOR HALL: No. No, you have to be at least 18 years of age in order to not only play, but in the case of a bingo hall, you...many of them have the provision that you have to be 18 years of age in...even to enter.

SENATOR CHAMBERS: Is gambling in your opinion a positive good? A societal good that it advances the higher...the higher principles according to which people should direct their lives?

SENATOR HALL: I think that the revenue that is generated clearly provides for that, Senator Chambers, in many cases.

SENATOR CHAMBERS: Is the activity of gambling a positive good in your opinion?

SENATOR HALL: I think it can be. I don't gamble very much so I would say that it's something that good minds can disagree on.

SENATOR CHAMBERS: The basis for...

SENATOR HALL: Bad minds could disagree on it, too, for that matter.

SENATOR CHAMBERS: The basis for justifying this activity and supporting it, though, is the money that is raised by it? Is that the reason for it?

SENATOR HALL: At this point in time, yes, Senator Chambers, clearly it is. It is no different than the example that you have often used, the baby that can't be weaned from the bottle. It has become a necessary source of revenue.

SENATOR CHAMBERS: Okay, so then it is the end that is justifying the means in this instance; the end, which is the money, that justifies the method which is the gambling?

SENATOR HALL: In this case, I think that's...there is a very good argument that can be made for that.

SENATOR CHAMBERS: Does the church, oh, excuse me.

SENATOR HALL: I was just saying as much as I don't like to say that, I do believe that, yes, that is possible.

SENATOR CHAMBERS: Do the churches and the schools that engage in this activity encourage the children that they teach in school and those they instruct in church, do they teach and encourage them to gamble?

SENATOR HALL: No, I don't think they do. I don't...I have a daughter who is in a parochial school, and Annie is in the second grade, and I don't know of any instance in which she has been encouraged to gamble in any way, shape, or form.

March 27, 1990

LB 356, 1055

SENATOR CHAMBERS: So we have a situation where the churches and the schools engage in conduct which they don't want the children to engage in or, in other words, they don't want the children to follow the example that they are laying out for them by their own gambling?

SENATOR HALL: I don't think that is quite accurate. That doesn't carry with your other question. Your other question to me was do they encourage gambling.

SENATOR CHAMBERS: Okay, let me rephrase the question.

SENATOR HALL: Okay.

SENATOR CHAMBERS: Do the churches and the schools want the children to follow their example and gamble?

PRESIDENT: One minute.

SENATOR HALL: Oh, I don't think so. I think they, in this case they offer bingo, they offer pickles as a way to raise revenue to allow that greater good, that benefit to society, in the case, the example you give, a parochial school or a private school opportunity that otherwise probably wouldn't be able to exist.

SENATOR CHAMBERS: And because my time is so close to running out, I am going to put my light on again, Mr. Chairman, and relinquish what few seconds I may have.

SENATOR HALL: If I could just use the seconds, the answer to your question, Senator Chambers, is 65 to 80 percent is the winning and it usually runs between 75 and 78 is what the payout is.

PRESIDENT: Thank you. Senator Nelson, please, followed by Senator Schmit.

SENATOR NELSON: Mr. Speaker, members of the body, I, too, naturally, am interested in all portions of the bill, and I, and like maybe Senator Chambers here or, in essence, Senator Hall, I also am like Senator Landis, I have not supported I believe it was LB 356 and yet I look at it as this is something that we have now and it has been a means of support of some of the

private schools, and for us to take it away from them entirely at this point I think would be unconscionable. Also I will be supporting, naturally, all of the bill. The racing tax portion of it is the same concern. This is something that has been with us and with us for some time, and a little later on, I will go down through some of the organizations and some of the groups that are supported again by that tax. And I guess that by our doing away with all of them or any of either the pickle cards or the racing tracks and so on, the state would probably lose more than they would in the end by this small cut in the revenue. So I will be supporting hopefully all three portions of the bill.

PRESIDENT: Thank you. Senator Schmit, followed by Senator Wesely and Senator Chambers.

SENATOR SCHMIT: Well, Mr. President, and members, one of the things I would like to call your attention to is the schedule you have handed out to you which outlines the changes in the taxes on bingo and pickles over the last few years. Up in...in '59, in '69 it was changed, '78 changed, '83 changed, '86 changed. Pickles, in '83 it was changed to 2 percent of gross, '86 it was changed to 3 percent of gross, '88 it was changed to 20 percent of definite profit, '89, the tax was changed to 13 percent of definite profit. Those were just a few changes. What you really do not see, ladies and gentlemen, is what happens to the gross, and I would suggest that you have a problem which is almost impossible to resolve unless you change the entire system which you are operating. I think that the Department of Revenue is doing as good a job as can be expected of them, given the statutes we have given them, but if anyone believes that we are collecting all of the revenue that is being gambled in the State of Nebraska, then you are pretty naive. The facts are that the industry is much larger than the reported numbers. I don't know about the bingo end of it but the pickle industry, ladies and gentlemen, is an invitation to chicanery. And I don't care if you give Mr. Hirsch ten times the people he has got, he'd have to check those places every day, every week, at least, to be able to stay on top of it. The amount of tax collected on these industries is really insignificant unless you collect it on all of the industry. What you do if you do not do that is you penalize those outlets that are legitimate, that try to operate within the law. Now at one time there was proposed that we would have a Gaming Division in the State of Nebraska and then it was determined apparently that it was not necessary. I think that eventually you are going to have to have a Gaming

Division within the state, in order that you give the State of Nebraska the kind of enforcement authority you need to outlaw illegal gambling of any kind and to collect the legitimate taxes that this Legislature deems are appropriate on that which we decide to allow. I would suggest that the State of Nebraska, maybe Jacky Smith, Senator Smith and the General Affairs Committee, ought to check the State of Iowa and surrounding states who have established in advance their Gaming Commission, and then they allowed various kinds of gambling or gaming, as you might want to call it. Here in Nebraska we allowed the gaming to proliferate and then we said, by the way, why don't the Revenue Department go out and police it. Once it was in the...it was established, it was like having a forest fire going at Halsey and asking a small town fire department, like Bellwood, to put it out or to monitor it or to control it. It is almost impossible. Again, I want to say I think they have done a commendable job in the last few years. They have improved their staff. They have increased their staff and they...are much more on top of it than they were, but it is a very, very difficult situation. Last, but not the least, is that I think you have recognize that whether you want to admit it or not, there is a lot of illegal activity in this state, whether it be sport betting, whether it be other types of activity,...

PRESIDENT: One minute.

SENATOR SCHMIT: ...that is not being taxed, and the day will come in this state, possibly sooner rather than later, when we will recognize the need to tax that kind of activity. It would appear here that 1988 we collected \$6.6 million in taxes on bingo, pickles, raffles, and lotteries. I would suggest, ladies and gentlemen, that is probably maybe 15 percent of the tax that ought to have been collected. You know we have been in an unusual position of having excess revenues the last few years. As revenues become tighter and tighter, I would expect the enforcement of this act to be more desirable. I just want to say that whatever you do, regardless of how you adjust these revenues, you have to be certain that you give the Department of Revenue sufficient funds to collect the taxes that are due. If you do not, you are going to defeat the entire purpose. I would suggest that this is one place where you might earn thousands of percent interest on your investment by giving to the Department of Revenue the money they need to enforce the statutes, as far as I am concerned somewhat...not a very good statute, but at

least give the department the kind of revenue they need to enforce what we have on the books. Eventually, we are going to have to...

PRESIDENT: Time.

SENATOR SCHMIT: ...come around full circle and agree that if we are going to be honest to the people that we are going to have some sort of overall authority. I am not sure when that will come but it will come. Thank you.

PRESIDENT: Thank you. Senator Wesely, please, followed by Senator Chambers and Senator Lynch.

SENATOR WESELY: Thank you, Mr. President and members. I appreciated the comments of Senator Hall in explaining the need for this amendment. I understand that the extra 3 percent would go to the charities and, obviously, the charities involved are of interest to us and we want to be helpful. But I have listened to Senator Schmit and followed a bit this issue and the pickles have always seemed to me to be the most unregulated of the different gambling in the state, that they are the most difficult to keep on top of and monitor. And where bingo appears to me to be something that originated in a very old-fashioned mild manner fashion and the churches participate and it doesn't seem too offensive, the pickles have gotten to be a little bigger than that, and a little more money, a little more unregulated perhaps, and it concerns me a great deal, and so I am a little reluctant to reduce the tax from 13 to 10 percent, though it does go to a worthy cause in terms of the charitable organizations. And so, I guess I'd just ask Senator Hall and Senator Smith as they...if they have a chance to talk about the regulation of pickles, and have we gotten a handle on the pickle activity, and are they, in fact, complying with the laws? I know we have had big controversy and discussion about this over the years, but, really, if I had a chance, I guess I would give the rest of my time to Senator Hall, and talk a bit about have we gotten the pickle situation under control? Have the problems that have been there in the past been taken care of but with the changes we have went through the last couple of years, and where we're at in terms of pickle oversight and monitoring?

SENATOR HALL: Thank you, Senator Wesely. Mr. President and members, clearly we are 850 million times better off than we

were three years ago, just three short years ago, because of the efforts of Senator Smith, and her predecessor, Senator Morehead, and I fought some of those because, basically, I felt that some of the reporting requirements were too onerous, and we did modify some of those. But what we have done is we have cleaned up the industry, and I think if you were to ask the folks in the Gaming Division, and Senator Smith can correct me if I am wrong, in the Gaming Division over in the Department of Revenue, they feel that they have a good control over what is currently going on. Now, they will also tell you that there is still some problems out there and don't misunderstand me. I don't intend to lead you to believe that this is a absolutely, lily-white operation. There are, as Senator Schmit rightly pointed out, ways that you can beat the system and he specifically alluded to the bogus pickle operations where somebody can bring in pickles from outside the state and, sure, they could beat the system. But there, I think, is clearly the best set of regulations in place that we have ever had. The Department of Revenue feels that they need a little more regulation and oversight. I have offered to help them do that. There is some things that they want to clean up. There is some changes that Senator Smith and her committee have placed into one of the priority bills of the committee that even changes some of the things that we adopted three short years ago because they are not working that well. And there is some additional oversight regulation and reporting requirements that are on the burner that we want to address for next year. I am going to be supportive of those. I think we probably have the best handle we have ever had. I think it is clearly with the wiping out of the pickle parlors, we have cleaned up the industry, but there is still room for improvement and there always is, there always will be. But as long as we continue staying on top of that, I think it makes good sense now to address the tax issue so we bring it back down to even greater where it was prior to the...

PRESIDENT: One minute.

SENATOR HALL: ...implementation of all the additional regulation and oversight. It was put in place as a punitive measure and, frankly, it worked, but now it is time to allow those charities to function with the proceeds from their efforts and that is all we do with this committee amendment. I think that the Charitable Gaming Division has done an outstanding job. I have had, frankly, charitable organizations in my district that have been audited by them. Some of them came to me with

complaints, and I said, tough luck, you abide by the law or you get out of the business. And that is what you have to do because I want to guarantee that the good organizations continue to have the opportunity to use this fund-raising source far into the future. I would urge the adoption of the committee amendments and I thank Senator Wesely for his time.

PRESIDENT: Thank you. Senator Chambers, please, and followed by Senator Lynch.

SENATOR CHAMBERS: Mr. Chairman, and members of the Legislature, it is time for some more moralizing. We are talking about gambling and for somebody who has been called a nonbeliever, an atheist, an infidel, and so forth, it is kind of hard for me to reconcile gambling in the churches with righteousness. It is hard for me to reconcile churches and schools doing things that they have to tell the children, now don't you do what you see us do because it is wrong. The example is what children see, and in so many aspects of this society's life where adults are involved, they do things and tell the children but you do something else. William Bennett cannot shake his nicotine habit but he tells youngsters just say no to drugs. Many people write, and he said, and Bennett also said leave alcohol alone, too, so he is probably a closet alcoholic but he doesn't want his particular brand of drug addiction touched. So the churches and the schools are pontificating to the children, churches saying live righteously so you can go to heaven, and a child says, well, if Jesus was here in his robes, would he be hustling pickle cards? And because rap is the thing, they see bingo in the church, they say why don't we call this JC Plus 12 bingo game for Jesus and the twelve disciples. How can they take all of that superstitious nonsense seriously, when on the one hand, there is talk about an uprighteous life, and upright life, and then the churches and the schools engage in the nefarious activity. When the children have to be warned by the churches and the schools not to do what the churches and schools are doing, something, indeed, is wrong with the churches and the schools. Craps for the Lord, how about that? Cards for Jehovah, how about that? Do it all, and in the churches. They have got plenty of lights, stained glass to create the atmosphere, and if you are lucky, you can cross yourself, count beads, or whatever else you do in a church, and ask God to help give you a winning number or numbers, help you pull off this little tab and win in the name of the Lord. And I am suppose to take it seriously. I probably take it more seriously than the

people who claim to believe in it, because I think with those standards, there ought to be some things that are off limits, but then I am an outsider and a nonbeliever. The Bible, Senator Labedz, does refer to some gambling. Jonah was on a ship, the ship was in trouble. Sailors were very superstitious. They felt that they would cast lots and the lots would be a means to determine who the bad fellow was and Jonah came up. So they threw him overboard and a fish ate him. (Laughter.) In churches they say a whale because they don't know the difference between a whale, which is a mammal, and a fish, which is not a mammal. The Bible says a fish, but don't they teach the little children that it was a whale, but churches are known to mislead children. That is the tactic. That is the purpose. While they are little and foolish and silly, you take advantage of them. You ought to let little kids start their little bingo games and take their pennies for the Lord. Let them have their little pickle card games for the Lord and follow the example of the preacher and the teacher, and if their conduct is too reprehensible for the children to follow, they probably shouldn't be engaging in it. Then we come up to the New Testament because we don't want to leave anybody out. And, Senator Langford, now you and I probably are closer to that time actually occurring than anybody else in here. Sometime we yearn for the days of the dinosaurs and the troglodytes and the dodo birds, the good old days, but in this instance, Jesus was hanging on the cross...

PRESIDENT: One minute.

SENATOR CHAMBERS: ...doing whatever he is doing, just hanging out as Senator Hall says, and the soldiers are gambling, casting, shooting craps for his robe. Maybe that is why the churches say that gambling is all right because it was done by those who killed Jesus. So if it was good enough for the Christ killers, then certainly it is good enough for the church builders. These are hard things for me to rationalize and understand, but those who have those direct conduits to God and Christ and all these others that they worship have much more understanding than I do. However, because I don't see gambling as a positive good, and this is the dumb kind of gambling anyway, I am not going to support this, and what I also see is a fragile coalition to let Ak-Sar-Ben gallop across the finish line, so we have a situation of some very emaciated skinny jockeys carrying a big fat horse like Ak-Sar-Ben.

PRESIDENT: Time.

SENATOR CHAMBERS: And that is why we are doing everything we are doing here today. It kind of fits in with the idea of the church gambles but the children shouldn't.

PRESIDENT: Thank you. Senator Lynch, please.

SENATOR LYNCH: Mr. President and members, the more I listen to Ernie, I mean, to Reverend Ernie, I have to say that I can't help but think that maybe Ernie sometimes would like to tell us that be what I am, do what I do, say what I say, think what I think, act like I act, and your soul will be saved. If he believed in a soul, then I could believe everything he says sometimes, but I know he doesn't necessarily believe in that. But enough of that moralizing and preaching, let's just talk about gambling. I think Ernie takes a gamble every time he gets in his car to come to Lincoln sometimes, to tell you the truth.

SENATOR HALL: The rest of us sure do. (Laughter).

SENATOR LYNCH: But just for the record, it might be important to remind all of you that this is one of those bills where what you do or what you don't do makes and justifies why you should support all the amendments. For example, you know back in 1986, there was about 153 million plus wagered at the horses, and at that point in time, we took in four million, nine hundred, and if I can find the number here, four million, nine hundred and some thousand dollars in tax, almost \$5 million. This year, based on the charts that the Revenue Committee provided for us, there will be about \$153 million bet on horses, but there will be no tax collected. Now I hope you understand that whatever the margins are that's returned to the horses and in the case, I hope some of you listen to this and hear this, and in the case of the horses, it all goes back to the industry. It isn't collected in taxes, it goes back to the industry. So that means that right now there is probably about six million bucks, because that is the tax we should be collecting now, that is now going back to the industry to help them survive, to run these gambling operations which are sophisticated and effete, sometimes maybe even snobbish where kids are invited for that matter, and all those other good and bad things. And they don't pay a tax because we want to protect the industry, well, that is fine. I will support that except that you know if you pass 1059 without these amendments, next year that six million will grow

to \$7,000,246 that the horse tracks will not pay in tax and give back to the state. So thoroughbred racing is going to pick up a million, two next year when 1059, 1055 passes, and then in 1992 and '93, it will pick up a million, eight. So there is an escalator clause in them. This bill provides them not paying taxes. Well, if this is the price you want to pay this economic development effort to keep the horses going, that is fine, but don't take it out of the hides of the pickle players and the bingo players. That is not fair at all. What you will be doing is going from about \$6.6 million in revenues, in taxes now paid from pickles and bingo and charitable gaming down to about five million, eight. I don't know what your numbers are. I don't know where Tim got his numbers, but it doesn't seem to me it is that much that he says it is. So think about that trade-off, and how can you justify passing one portion of this bill that applies to horses that is going to return another million, two in addition to the five or six they don't pay, simply because that is good business? And then if you...if you vote for that because you think, well, that kind of gambling is better than the other kind of gambling, you really got to be eating some of the straw the horses are chewing on. That makes no sense at all. So I would like to suggest to you that again this is an equity bill, as it applies to pickles, as it applies to bingo. It is only fair that the charitable organizations, for all those reasons I won't remind you of again, is only fair and, remember, you need all three, because at the same time you are going to give a million, two back to horses in 1991 and '92, and a million, eight in 1992 and '93, you are still looking at maybe 800,000 going back to charitable organizations which will play big, big dividends to the local communities served by these charitable organizations and they need it, seriously need it. And it is certainly not cost effective and it is obviously very discriminatory for us not to do this. So I would suggest you look beyond what Reverend Chambers has said and seriously consider this amendment as well as the first one and go on and pass all three phases of this legislation.

PRESIDENT: Thank you. Senator Schmit is next, followed by Senator Smith and Senator Nelson.

SENATOR SCHMIT: Well, Senator Lynch, you know I am amazed at you. You have been a good friend of mine for many years. You know as we have had it explained to us many times on this floor that the horse racing industry is not the industry of the elite. It is not the king of sports. It is really agricultural in

nature and this, when we take the tax off of horse racing, actually it is a direct subsidy to agriculture, and that is about all that agriculture is going to get off of this floor in any given year out of a billion or two dollars that we spend. So how dare you suggest that agriculture not get this mere pittance in the form of a reduced tax on racing because, after all, who would eat all those oats out there and eat all that hay if we didn't have the thoroughbred. Now if you believe all that, then you have got your head in the oats bag farther than I think you do, and I know you don't, Senator Lynch. The facts are that I don't care if you bet on two flies crawling up the wall, but if the tax is supposed to be 5 percent, it ought to be 5 percent. Now Senator Chambers, I think, Senator Chambers, you allude somewhat facetiously but not entirely to the church I am a member of which is a very fine church and, of course, we believe in confession and so sin is not...is not damning for us. We can go to confession and we are forgiven. Now as a member of another church, as a friend of mine says, gambling is not a sin unless you give scandal, and when you give...and that is the sin, the actual scandal, and so that is what we have chosen to adopt here in the State of Nebraska. We act as though the gambling doesn't exist, Senator Chambers. Nobody would ever dare to bet on a football game, nobody. All those sheets that circulate around on Friday afternoon and Saturday are purely for...informational purposes, there you go. Thank you, Senator Chambers. A billion dollars, a billion dollars, roughly, in sport betting we close our eyes to. Probably one out of three tickets on pickles in this state are sold illegally. We close our eyes to the bootleg pickles, and we act as if, we act as if we are going to get a control on this. I will say one thing, I think I am probably going to support the amendment, because by reducing the tax, you'll probably make it a little more, a little less odious, and a little more likely that there be illegal pickles sold. One of the things that happened when we raised the tax, we said, oh, my goodness, we discourage the pickle industry. We didn't discourage the production of pickles. We just discouraged the use of legal pickles. That is what we did. We had legal pickles on the downgrade and illegal pickles were in vogue. Ladies and gentlemen, if you don't learn from experience, you have to repeat your errors. The State of Iowa decided they would have some kind of a gaming industry, and so they grabbed a hold of it and they established their gaming control mechanism and then they set up their gaming industry, and they distribute their pickles through the Department of Revenue. They buy them from a single source and the Department

of Revenue distributes them with codes and all the other protections. There is no illegal pickles. If there are, they are a very small portion of the business. Give the Department of Revenue the authority, if you will, to distribute the pickles. They are going to find all kind of folks that are for free enterprise that are going to oppose that but, ladies and gentlemen, you will see the revenue from pickles dramatically improve. Now I am going to give you one more word of caution. You know in Nebraska we have allowed local option lotteries and we have seen a proliferation of what we call keno. Now the State of Nebraska gets 2 percent out of that. The cities can get up to 19, which is not really much sense either because that is self-defeating, but the point is this.

PRESIDENT: One minute.

SENATOR SCHMIT: We have decided to give away to local government the revenue from keno. The day will come on this floor, it won't be any of us, I am sure, but someone is going to stand up and say it was never intended that the State of Nebraska would surrender to the cities a hundred million dollars worth of revenue annually but we did. And once you have done it, ladies and gentlemen, do you think you are ever going to recover it? When the State of Nebraska is hurting for revenue, we are going to look at that and we'll probably be too late. Now the really serious flaw in that local option, city option situation is that the money is supposed to be used for community betterment, can't even use it for property tax relief directly. And so we usually spend that money on items we don't need or things we don't want because we have got it there anyway. So, ladies and gentlemen, I ask Senator Smith to pursue the idea of looking at...

PRESIDENT: Time.

SENATOR SCHMIT: ...what has been done in other states to get some kind of handle on what you are doing so you get the tax revenue that you should get from the gambling that goes on and stop ignoring that which goes on which you don't like to acknowledge. Thank you very much.

PRESIDENT: Thank you. Senator Smith, please.

SENATOR SMITH: Thank you, Mr. President. I would just try to clarify a few things. First of all, Senator Wesely asked if

actually we do have a handle on regulating bingo and pickle operations, particularly the pickle operations, and I would say, yes, we are to the extent that it is possible to regulate them. And Senator Schmit has a recommendation that the committee look at other states when we look at this interim study but also in a conservation that we just had we discussed the fact that no matter what you do to regulate, if you have illegal operations, there isn't too much you can do to regulate those illegal operations. And I believe Senator Schmit also said that you could go out there one day, and the next day, in other words, you would have to be out there every day. Well, no matter how many employees you would place on in the Gaming Division, then there is no way we would have enough employees to cover all of the bars, all of the operators across the State of Nebraska. So all I can say is that if someone is going to be illegal, just like in any of the other area, people have ways of getting around the law and so we can only put in place something that most of the times our laws do impact on, that is the people who intend to be legal anyway. That is not to say that we are going to not try to do all we can to regulate the industry, and I can tell you that just...he also asked me a little bit about how much money was collected, around a hundred million dollars in pickle gross sales this last year, and of that, \$4.7 million, which is 13 percent of the definite profit, went to the state; \$22 million in bingo sales, and \$1.3 million of that went to the state. Now that totals \$6 million and the breakdown on that is 35 percent of it goes to the Gaming Division with the other 65 percent of that amount of money going to the General Fund. As far as the number of employees in the Gaming Division, these are all questions that Senator Schmit asked me, and I hope he's listening, there are 30, and if they went to a Gaming Commission situation, they would have to add an additional 10 new members and then take the assistance that they were receiving from the Department of Revenue would be separated and they would have to replenish, in other words, add a total number of new staffing of about 40 people, and I know, Senator Schmit, that wouldn't be enough to nearly do the job but I don't think however many we'd put on would ever be enough. What I would like to do is just briefly tell you what we are intending to do during the interim in looking at all of gambling, legalized and other kinds of gambling that is not necessarily even legalized in Nebraska at this time, and all gaming activities, and then we would like to compare tax rates, take out, pay out, expense limitations, reporting procedures, location limitations, auditing, proceeds to the charity and its lawful purpose, and other regulatory

requirements that are statutorily applied to horse racing, bingo, local option lotteries, and pickle cards. The cost and methods and purposes of regulation applied by the state will be examined, including the uses and the advantages and disadvantages of commission versus code agencies as a regulatory body. And, also, you noted that I said horse racing a little bit earlier. The study is going to look at the regulation of horse racing in the State of Nebraska. They might be surprised to hear that out there but we are going to look at them and we are going to systematically examine the rules and regulations adopted by the State Racing Commission and the statutory basis of such rules and regulations. What we think is fair to do is talk about all gaming and gambling activities and say, do we have some unfair advantages and disadvantages in any of those areas that we are dealing with in the state, and maybe put them all in the same playing field. And I think it is time to look at them all in perspective, and we are really tired in the committee, I guess, of hearing everyone come in and testify, not everyone, about two-thirds of the people come in and testify angry because of what they see as a shelter, if you want to call it that, for the horse racing industry and then nothing for them. I am speaking about gambling kinds of people, supporters for gambling activity. And so we decided it is time for us to look at all of them together and see, are we doing some special things just because horse racing has been around since how long and we look at that as something that is separate from gambling in the State of Nebraska? So we are going to...we are going to be looking at all of that and, yes, I think maybe Senator Schmit has given me the idea that we should look at other states and make comparisons, and maybe that is a good idea. We will bring some of that information in as well, Senator Schmit. Thank you.

PRESIDENT: Thank you. Senator Nelson, please, followed by Senator Chambers and Senator Hartnett.

SENATOR NELSON: I call the question.

PRESIDENT: The question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk.

CLERK: 22 ayes, 7 nays to cease debate, Mr. President.

PRESIDENT: Debate is not ceased. Senator Chambers, followed by Senator Labeledz and Senator Schmit.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I am sorry, Deacon Dan is gone but he is probably somewhere within the sound of my voice. I don't want people to become offended or get upset at what I am saying about gambling and the churches because I don't do it. You all give me the opportunity to say these things. If you all do as Deacon Dan suggested like I recommend, there wouldn't be any gambling associated with the churches and a nonbeliever wouldn't be able to stand up and flay you in this fashion. Now look at the good humor with which I speak. I am not angry at you. I am not going to say God ought to send you to hell. I don't want any of you to go to hell. I don't, and that is why I am going to tell you, Jesus said anger rests in the bosom of a fool, and people who are angry like that go to hell. So don't be angry. Just kind of loosen up and go with the flow. You all know what I am going to talk about when you bring these issues before us and I think it is necessary to get these things into the record because many times the moral tone of a society I am told, when we have people like Ronald Reagan and George Bush pontificating, is established by the leaders in government. And when we have leaders in government in Nebraska on some issues wanting to be highly religious and straight-laced but then supporting gambling, I just see an inconsistency, and the inconsistency that I see is not based on my construction of religion but on the representations that those who say they are religious will make to the public. And I say, again, would Jesus be pleased with what you are doing here today? Would he want there to be more gambling in the churches? Is that what he would be doing, Senator Lowell Johnson, on an afternoon in March of 1990 if he were here shuffling around in his sandals? Or would he stand up and speak against it and wind up hanging around again, to use the colorful language of my colleague, Senator Hall, would they get him again? And who would get him? The churches, it is the churches that got him the first time, and people looking at that from about 2,000 years distance will say what a terrible thing. Why would those religious people want to silence a moral force like that? Well, look at the churches today and see what their attitudes are. If he went into some of these churches and wiped out the gamblers, wouldn't they do to him what those who were changing money and selling animals in the temple wanted to do to him? Human nature does not change. Superstitions are updated as time passes, but they basically have the same kernel or core. So that notion that somebody who talks at the high moral plain that Jesus reputedly did is all right as long as that person has been dead

for about 2,000 years. They have a chance to season and age and no longer be a threat. But if they are walking around saying that the people who are religious instead of selling animals in the temple and exchanging money at exorbitant rates should be finding a way to feed the hungry, to clothe the naked, to give solace to those who are sick in mind and body, then the churches don't have time for that. Look at the coalition that we have established to get all these various gambling programs through, but could we get a coalition this strong to put together a program to do the things that Jesus said you all who believe in him are supposed to do? Do you visit those in prison? How about the programs for the homeless in 1990 in a state like Nebraska and a city like Omaha where there is supposed to be so much togetherness and concern for those who are less fortunate? We could not get a program to see that there is...

PRESIDENT: One minute.

SENATOR CHAMBERS: ...adequate housing, adequate decent housing at an affordable rate, but we can sure come together for gambling for the benefit of the churches, can we not? Every time the opportunity presents itself, there are some things I am going to say because I think they need to be placed into the record. This amendment is obviously going to go, just like Ak-Sar-Ben's will. They have the power and the Legislature, like practically every other agency in this society, bows before power. When has the group at Ak-Sar-Ben ever selected a member of the Legislature to be king or queen of Ak-Sar-Ben? They wouldn't even consider it. Nobody is at that high enough level. The people in this Legislature are not on a level to socialize with the bigwigs in Ak-Sar-Ben.

PRESIDENT: Time.

SENATOR CHAMBERS: This is a Legislature of peons who carry the water and do the dirty work but they cannot socialize with those people because you are not of the high enough social class. Did you say time?

PRESIDENT: Yes.

SENATOR CHAMBERS: Oh.

PRESIDENT: Okay, thank you. May I introduce a special guest of Senator Haberman under the south balcony. We have Dr. Phil

Haberman. Doctor, glad to have you. Thank you for visiting us today. Senator Labedz, please, followed by Senator Schmit.

SENATOR LABEDZ: I am confused, are we still on pickles?

PRESIDENT: No,...

SENATOR LABEDZ: Everybody seems to be talking about Ak-Sar-Ben,...

PRESIDENT: ...no, we are on pickles.

SENATOR LABEDZ: ...including Senator Chambers. We are on pickles?

PRESIDENT: We are on the pickle cards now, yes.

SENATOR LABEDZ: Okay, I just have a very brief message. Shortly before I went to talk to 57 students, I told Senator Chambers that he had better be careful what he says about bingo because Holy Ghost has bingos twice a week, I believe, and most of their tuition is paid by the bingo proceeds, and that if anything, they would probably get so angry they'd throw spitballs down on Senator Chambers. And it would...someone else said that it would look like snow because I am sure it wouldn't just be 57, it would go on and on and on. I sometimes stand here and resent some of the things that Senator Chambers says and today is no exception when he keeps attacking the Catholic religion. And, Senator Chambers, I am sure that if you checked at Ak-Sar-Ben or at any of the bingos or where they sell pickles, there would be every denomination there and it is strictly not just the Catholics that are gambling. I am sure that Senator Chambers from time to time has bet on football games himself and I will admit that I do, too. I go to the beauty shop and I get into a football pool for a dollar, no big deal. Now I suppose I am saying the wrong thing because I think what I am doing is...I can guarantee you I never win, that is for sure. But as far as bingo and pickles are concerned, when you see 57 children up in the balcony today from one Catholic school that depend so much on the proceeds from bingo and pickles. In my own church, that we don't have bingo but they did close St. Frances School and I go to St. Stanislaus and they combined both of those schools into St. Stanislaus, and so we don't even have bingo but we do sell pickles, Senator Chambers, at least once a year at our festivals but we don't have any

outlets or any other form of proceeds from either bingo or pickles other than the festival. The festival I am proud to say has a proceeds of \$60,000 a year, but that includes all the booths, but think how many...how much salary we can pay the teachers by a fund raiser of \$60,000. A big majority of that I am sure is the sale of pickles. I also belong to the Polish Home in South Omaha and that has been in existence for many, many years on 25th and L Street, and they are badly in need of repairs. They need a new roof, they need new windows and, hopefully, by going back, they stopped bingo for at least a couple of years, and they went back to it because they knew that they could not exist without the bingo proceeds. So evidently we are going to be able now to get a new roof and also new windows and some weatherization that we badly needed just because we are in the business of selling pickles and having bingos at the Polish Home, and that has absolutely nothing to do with the schools, I know. But we have the Little Vikes, the VFWs, and the UNO athletics that sell pickles and I can't understand why Senator Chambers is so vehemently against Catholic charities that go out and help the poor and help those that want to go to a private school with their tuition and gives them the opportunity to do so. I think the private schools have done a terrific job. My own children, four children, went to private schools and I am certainly proud of their education. They also went to a Catholic High School and to Creighton University, so I am very proud of that fact, but it is awfully hard when they want to go to a private school, it is difficult when there isn't help and the tuition goes sky-high. We have competition, too, against our teachers. We have to pay them approximately the same salary as they are receiving in the public schools, and without the additional help that we do get from these two fund-raising activities certainly does help. I also support the third phase of LB 1055 strongly, and that is the Ak-Sar-Ben tax break. So I hope that the committee amendments, or this, this is (B) or is it (A), (A), (B), or (C)? I have to go back to school. We are on (C).

PRESIDENT: "C".

SENATOR LABEDZ: Okay, we are on (C). I supported (B) and am grateful that the 33 senators supported it also. I also urge the adoption of the (C) amendment for the pickle operation. Thank you.

PRESIDENT: Thank you. Senator Schmit, please, followed by

Senator Hartnett.

SENATOR SCHMIT: Ladies and gentlemen, this Legislature has over the years decided that certain types of gambling is admissible if not acceptable. We have said that horse racing based upon a constitutional amendment is legal, and there was a time when we collected a tax upon it. In fact, back in 1973, I raised the tax from 4 to 5 percent. And racing fell upon hard times, most of it because of other types of gaming and gambling, most of it, I say most, and I think that I could not be proven wrong, most of it illegal. Sport betting is illegal. It all takes place. Pickles, much of it illegal, is taking place. Lottery machines, we outlawed lottery machines, (inaudible) lottery machines, but there are many of them out there today. We have keno which is legal. I haven't...is Senator Chris Abboud here? If you could use the...revenue from the keno game in Ralston to support the schools, the county treasurer would have to send the county...the homeowners a check back up there because, obviously, they have one of the most successful operations in the state. I don't care what you decide to do relative to whether you approve or disapprove, legalize or declare illegal any kind of gambling or gaming activity, all I am suggesting is that if you legalize it, then you ought to try to make it as legitimately possible to police it, to not give the policing department, the Department of Revenue, an impossible task. Now I mentioned the State of Iowa. The State of Iowa has many kinds of gaming, but the State of Iowa buys all of their pickles from American Gaming out of Des Moines, and there that pickle is designed to a certain specification, and the Department of Revenue distributes them. Now someone says why do you want to do that? Well, ladies and gentlemen, a dollar pickle is the same as a dollar bill. Now would you ever suggest that I or anyone on this floor, or any businessman could go into the business of printing money? Oh, no, that is a governmental function. At least it ought to be controlled and licensed and regulated by government, but when we allow the pickles to be stamped out by the truckload, by the trainload, by anyone who wants to get into the pickle business, and then we say to Roger Hirsch and his group, you go out there and be sure that they are being handled legally, you give them an impossible task. I think you...if you were to have the Department of Revenue handle the distribution of pickles, you would dramatically increase the revenue. If he had to double his manpower or womanpower, whatever it is, you would see a dramatic increase in the revenue because there would be a dramatic decrease in the illegal

activity. I am not saying it is good or bad. I am just saying it ought to be done legally. I don't see how anyone can argue with that. I am going to try to draft an amendment for this bill prior to Select File that will require the pickle tickets to be distributed by the Department of Revenue from an approved source, accountable to the Department of Revenue. Now I am sure that there is going to be someone stand on this floor and say, you are going to put my constituent out of business. Well, that may be true. Maybe the department can license that individual, I don't know, but the point I wanted to make is this, you would not allow a private individual to print currency and circulate it at will. Why should you allow anyone to print a substitute currency and to circulate that also at will? I want to go back once again to what I said earlier. Ladies and gentlemen, the State of Nebraska makes a terrible mistake when we do not acknowledge the existence...

PRESIDENT: One minute.

SENATOR SCHMIT: ...of billions of dollars worth of gambling activity in this state and we do not tax it properly. I don't care whether it is for the churches, the charities, or any other entity. Lastly, of course, as Senator Labeledz has pointed out, a vast majority of the pickles are not sold by churches. They are sold in bars and other outlets for a variety of reasons and purposes, but if you are going to have it in operation, then you ought to have it as legitimate as possible and, ladies and gentlemen, there are ways you can do that. To the extent that you do not do that, we are all guilty of allowing it to continue and allowing the law to be circumvented. Thank you.

PRESIDENT: Thank you. Senator Hartnett, please.

SENATOR HARTNETT: Mr. President and members of the body, I think a lot have been talking about the various schools and areas like that, but in my particular community, the thing that the pickles are used for is we have a volunteer fire department and that is what it is used for. So I think the use of pickles, monies from pickles is much broader than for private schools and churches and it involves other organizations, such as in my community, a volunteer fire department. And with that, I'd give the rest of my time to Senator Chambers.

PRESIDENT: Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, and members of the Legislature, Senator Bernice Labedz, I hope you are listening. Senator Labedz is so sensitive about the things that I say that she attributes to me words that I didn't speak. Senator Labedz, not once did I say Catholic today except just now. Oh, she is claiming...because I said Jesus, she thinks I am talking about Catholic. Jesus just doesn't belong to the Catholics. There are Baptists, there are Methodists, there are Episcopalians who will kill you because you said that, and Lutherans, too. Jesus belongs to everybody. He is not Catholic. Even Peter that they call Rocky, he is not Catholic, I don't think. But anyway, Senator Labedz, when I am giving these kind of presentations I'm...she gave me some candy and she wants it back, I am including all, all of the religious associations and assemblages that use gambling. That is why I said these churches. I am including all of them and I really mean every word that I said. Now if it is unnecessary to be concerned about what an unbeliever says, then just disregard what I am saying and don't be offended. But the fact is there are other instances when people say that gambling is not a social good, that it is not desirable, that it does not advance any of the legitimate interests of a society. Yet when we see those institutions whose job it is to help elevate society engaging in it, there is inconsistency, Senator Hall, based on the way I look at it. But here is what I believe, if there is going to be gambling allowed by the state, there should be gambling for everybody, period. That failing, there should be gambling for nobody. What we are doing here is what they do in the rackets, Senator Langford, and these young whippersnappers don't use the term "rackets" anymore, they talk about the mob or gangsters and so forth. We who go way back, we still use the real words. We are talking about the rackets and what the...what we are doing here is cutting up territory just like they did in the rackets. The churches and the schools can have the bingo and the lotteries and the pickle cards, and Ak-Sar-Ben, the big shots, have the race tracks and all that goes with them. We are cutting up the territory like the racketeers, but the common gambling that requires some intelligence and allows you to study and increase your chances of winning is the only kind of gambling that is made illegal in the State of Nebraska, and I am talking about sports betting. Sports betting. Gambling that the clergy collar agrees with we can have, gambling that the teacher collar agrees with we can have, but if it comes to the blue collar or the no collar gambling, that is illegal. There are more blue collars and no collars in this world than there are clergy

collars and teacher collars. That is what we ought to be looking at when we say we are going to consider all aspects of gambling. One of the things that causes me to find what we are doing today offensive is that there is a certain little area of gambling that is being carved out and made legitimate and is to be protected, and that is the kind that certain classes or categories who may deem themselves better than others want to engage in. And I just don't think that is appropriate. There is no way that I would support what Ak-Sar-Ben is trying to do, but I am not going to inject that at this point into the discussion here because Senator Hall is dancing on eggs. He is standing on needles and pins because he wants this amendment adopted, and we know that it is going to be adopted. Senator Hall if I stood really literally and tried to stop this in the real world, as I am trying to stop an amendment on this floor, and the people who support it were a herd of elephants, you know what would happen to me, don't you? If you want to waive your closing, I will bet you ten to one that there will be only one dissenting vote.

PRESIDENT: Senator Smith, please.

SENATOR SMITH: Call the question.

PRESIDENT: The question has been called. Do I see five hands? I do, and the question is, shall debate cease? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk.

CLERK: 26 ayes, 0 nays to cease debate, Mr. President.

PRESIDENT: Debate has ceased. Senator Hall would you close on the...

SENATOR HALL: Mr. President, since I am not a betting man, I won't take Senator Chambers' offer. Besides it wouldn't be fair because I could always cast a red vote, should he be right, and that clearly would be a sucker bet but I wouldn't do that as he knows. The issue here is an issue of at what level do we tax pickle cards. We taxed pickle cards at 2 percent of gross. We changed that to three. We changed the mechanism by which we taxed them. We raised it to 20 percent of definite profit because of the problems the industry had. We came back last year, we brought that down to 13 because the feeling of the body, the feeling, I think, of the department was that they had

March 27, 1990

LB 931, 1055
LR 401

a pretty good control over what was going on in the industry. That doesn't mean we need to turn our back on some of the problems and not continue to look with a very keen eye at this industry. All we do with this amendment is bring the pickle tax back to about double what it was prior to the change. It would equate to about a 4 percent of gross, if you will. So prior to the change in the system from gross to definite profit, we'd still be bringing in more money, a greater percentage of tax, than we were prior to all the changes in the reporting and the requirements, the regulation and the oversight. It is money that flows directly to the charities. It doesn't flow to anybody else in the formula. It flows back strictly to the charities. It does have an impact on the General Fund. When you look at all the committee amendments together, there is little or no impact at all to the overall revenue of the state. I would urge adoption of this portion of the committee amendment.

PRESIDENT: Thank you. The question is the adoption of the (C) section of the committee amendments. All in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 25 ayes, 3 nays, Mr. President, on adoption of that portion of the committee amendments.

PRESIDENT: The (C) section is adopted. Do you have something for the record, Mr. Clerk?

CLERK: I do, Mr. President, amendments to be printed to LB 931 by Senator Baack. A new resolution, LR 401 by Senator Lynch. (Read brief explanation. See pages 1638-39 of the Legislative Journal.)

And, Mr. President, a confirmation report by the General Affairs Committee. That is signed by Senator Smith.

Mr. President, the next item are the balance of the committee amendments, which I believe are Sections 1, 2 and 9.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: The Chair recognizes Senator Hall.

SENATOR HALL: Thank you, Mr. President and members. This is the meat of the issue. This is the portion of the committee

amendments in LB 1055 that deal with parimutuel wagering and the taxing thereof. If you remember, in 1987 we passed a bill that basically wiped out the parimutuel tax for three years based on the competition the industry was feeling, the fact that there were tracks in the State of Nebraska that needed improvement, and there were tracks being built or were built in Des Moines, Minneapolis, and possibly on-line for Kansas City, Kansas. What we did at that time was we allowed for a tax of 2 percent, but that 2 percent would be returned to the tracks in the form of a credit, a credit that had to be used for capital construction or improvements to those tracks. It was the feeling of the body at this time, although I opposed that legislation, that we would allow the industry in the state to have a period of time in which they would pay no tax and regroup, basically, update, refurbish the existing tracks, and give them the opportunity to compete with the new tracks that were coming on line. They were coming on line at a much reduced tax levy than that which was the current structure in the State of Nebraska. We had two bills introduced, well, really three that dealt with the horse racing industry; Senator Lynch's bill that dealt with the 2 percent across the board, LB 1034 which was the industry bill that I introduced on their behalf that the Revenue Committee unanimously killed, and then LB 1055 that I introduced simultaneously with LB 1034 that was, I felt, closer to where the industry should be in terms of taxation. The industry initially looked for an introducer, to be quite honest with you, to extend the benefits that we put in place in 1987. To my knowledge, they could not find anyone. They stooped so low as to come to me as the introducer of their bill. I talked long and hard with those folks because I felt that one of the best arguments that was made at the time was an argument that I made, silly of me to think that, but an argument that said if you are going to have gambling, you ought to tax it, and that clearly is an argument that I would continue to voice, whether it be in the area of pickle cards, bingo, parimutuel wagering, or even in the area of sports betting, which as Senator Chambers knows, I happen to support. This issue is one of...it is the same question we answered in the first two amendments, at what level do you tax them? Now I would like to see a level of tax across the board for all gambling, if they can support it, but it shouldn't be at a level that they can't support because it doesn't do us any good to tax something if they can't pay it. And that is what the horse racing industry has said, we can pay at a level we feel makes sense, and that level in the committee amendments is a level that represents 2 1/2 percent,

2 1/2 percent for three years. They would continue to have their 2 percent credit that goes back to the tracks. It has to be used for capital improvements to the tracks so they can continue to compete with those tracks in the three areas that I mentioned, and then at the end of those three years, the tax would be increased to 3 percent, and 2 percent of that tax, 2 percent of the 3 percent would flow to the General Fund. One percent would be continued to be used by those tracks for capital improvements. So January 1 of 1994, there would be a 3 percent tax in place. Two percent would be actual tax, it would not be a credit. It would be 2 percent of whatever they handle would be after the first \$10 million. As you know, in 1987 we put in place a first \$10 million exemption for the small tracks, so that they would be covered and, basically, they would pay no tax. That continues in the committee amendments as they are offered before you in 1055. The other provisions in the bill deal with an increase in the takeout, and the take out is the portion of the wager that is kept by the track. If you look at the handout that I gave to you, you will see in the page 3 of it what the takeout is across the country for the various states, and Nebraska has currently the lowest takeout provision with regard to the win, place, show bets, the percentage is 15 percent, which means 15 cents of every dollar bet goes back to the track automatically and it is used both for the track in terms of the purses and for the horse men and the breeders. The exotic percentage is 20 percent. Nebraska is either...it is not exactly the lowest, New Jersey has a 19, but Nebraska is at the bottom. They are at 20. New Jersey has a 25 percent for exotics of three or more; Nebraska has no provision of that in law. What the committee amendments would do would increase the win, place, show takeout from 15 to 18 percent, which would put us neither at the highest nor the lowest anymore. It would put us at the mean of about between 17 and 19 which are the highest, and then we would change the exotics to from 20 to 23, which would do approximately the same but it would put us at the higher end of the scale, with New Hampshire having the highest of 26, and the lowest being Oklahoma and Pennsylvania which mirrors what Nebraska is currently at, and that is 20 percent. What happens when you do that? Well, the arguments against it are that you lessen the attractiveness for the bettors. You take a greater percentage out at the front end so that the winnings at the back end that come through the window for the folks who push the money through there aren't as attractive as they have been in the past. That it is a good argument. Clearly, there is some justification for that argument. The

flip side of that argument is is that if you don't allow more money to come into the track, basically, what you do is you strangle the track through its increased operating costs, its increased desire on the part of the fellows, the horsemen and the breeders who are in the industry, to have those purses that attract the good horses which, in turn, attract bettors to those operations. It is literally a Catch-22. In many cases, if you don't do that, you don't have the purses, so in turn you don't...you aren't able to compete for the good horses who are out there. With the track that goes on line I think in mid-May down in Kansas City, Kansas, we will see possibly, and this whole formula is predicated on a 20 percent loss in the handle for the industry in Nebraska. Now that is the one variable that I can't attest to. It is what the industry feels will take place. If that happens, if there is a 20 percent reduction in the overall handle, there is clearly no way, based on the numbers that they have shown us, that they can continue to operate without the increase takeout. They feel that it is necessary just to compete with the industry as it is today, let alone once the Kansas City track comes on line. With that, the provisions with regard to the takeout are that they would be divided amongst the track 1 percent, the horsemen 1 percent, and then the breeders 1 percent. So the 3 percent increase in those areas would not all go to the track but they would be divided in equal parts, 33-1/3 to each of the...those three entities. With that, I don't think that there is anything else in this section of the committee amendments that I am overlooking. I also included for you the parimutuel tax since 1990 (sic) and the explanation of what it has raised, what the projections are with regard to the taxes that would be under the committee amendments, and I think...oh, the other provision is this, which is an important one. It says that the...anything that is raised, the handle, any handle over...

SPEAKER BARRETT: One minute.

SENATOR HALL: Thank you, Mr. President. ...\$80 million will be taxed at 4 percent. If you remember in '87, we put that ceiling at \$100 million. The committee amendments reduce that. The argument being there is that if you are telling us that you are going to have a reduction by 20 percent of your overall handle, then let's reduce the ceiling so that if that doesn't take place, if there isn't a reduction that you feel will take place, that a 4 percent tax will kick in at anything over \$80 million. With the handle in 1989 of approximately \$96 million, the

potential for, excuse me, 4 percent tax on that \$16 million over the 80, which the committee amendments allow for, would raise a considerable amount of money, much, much more than the 1/2 percent on the \$70 million from the \$10 million that would be exempt to the \$80 million cap.

SPEAKER BARRETT: Time.

SENATOR HALL: With that, Mr. President, I would answer any questions about the committee amendments.

SPEAKER BARRETT: Thank you. An amendment on the desk, Mr. Clerk.

CLERK: Mr. President, Senator Chambers would move to amend this portion of the committee amendments. (See FA423 on page 1643 of the Legislative Journal.)

SPEAKER BARRETT: The Chair recognizes Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, if Senator Hall isn't busy, I would like to invite his attention to what I am doing so that he will be aware of it. Senator Hall, it is on page 2 of the committee amendment, and in line 7. I will read the language that I am striking by this amendment if it is adopted. The amendment would go to page 2, line 7 and put a period after the word "sum". Then strike the following language, "plus the odd cents of the redistribution over the next lower multiple of ten." Senator Hall, do you have any objection to this amendment?

SENATOR HALL: Senator Chambers, I will talk to the amendment on my own time.

SENATOR CHAMBERS: Okay, that means he objects. I would like to ask him a question. Senator Hall, we are talking about...

SENATOR HALL: About breakage.

SENATOR CHAMBERS: Say it again.

SENATOR HALL: Breakage, is that what we are talking about?

SENATOR CHAMBERS: We are talking about mere pennies here, though, are we?

SENATOR HALL: Mere pennies add up to thousands of dollars, Senator Chambers.

SENATOR CHAMBERS: So then what I'm trying to strike from the bill would be a considerable amount of money that the track could...stand to lose.

SENATOR HALL: It clearly does amount to that.

SENATOR CHAMBERS: All right. Thank you. And then he can talk on his own time. Members and Mr. Chairman, this is my amendment so I have 10 minutes. Members of the Legislature, the term "parimutuel" comes from Paris mutual. That's where all of this started, this type of gambling. You set up some kind of event that a lot of suckers are willing to put their money into, a common pot for. So all the suckers come and they put their money into the pot. The track takes out the part that goes to the government. Then they steal the amount that the Legislature is going to allow them to steal. Then what remains in the pot is split up among the suckers and each sucker gets an amount that is dependent on the amount of his or her bet. Then there is a relationship between the amount of his or her bet and the total amount in the pot, which means you divide what's left among these other people who were foolish enough to participate in this gambling. The track never loses anything. It's...is going to come off the top. So what Senator Hall wants to give them in addition to taking theirs off the top and an increase in the amount that they can take out of the pot while they're stealing, legalized stealing is what it will become, this that he correctly referred to as breakage. This is extra money, why should we give it to them? We should not. I'm going to ask Senator Labedz a question since Senator Hall is not here. She might understand how Ak-Sar-Ben does things and...

SPEAKER BARRETT: Senator Labedz.

SENATOR CHAMBERS: ...if you don't know the answer, then, you know, I will accept that. Senator Labedz, when Ak-Sar-Ben has its royalty functions, where does that money...oh, here's Senator Hall. He rescued you. He came running as fast as his little legs would carry him, or his long legs would carry him. Senator Hall, where does that money come from that is used for the royalty functions, when they are selecting kings and queens and things like that?

SENATOR HALL: The money to put that on does not come from the horse-racing dollars. It may have in the past but my understanding is is that is money that is donated by corporations in the Omaha community to sponsor the ball, as it's called.

SENATOR CHAMBERS: Okay, so your understanding is that the ball is sponsored strictly by money other than that...than what is derived from horse racing?

SENATOR HALL: That's my understanding.

SENATOR CHAMBERS: When Ak-Sar-Ben was...oh, does Ak-Sar-Ben still give away scholarships?

SENATOR HALL: Yes, they do.

SENATOR CHAMBERS: I had read that they had...they were going to quit doing that.

SENATOR HALL: It is also my understanding that the corporations in the Omaha community have made a commitment for five years to continue the, not only the scholarship program, Senator Chambers, but the 4-H Program and the contributions that they have traditionally made to county fairs so that, although Ak-Sar-Ben itself will not pay it out of its proceeds from the track or from its memberships, that those programs will continue but they will be funded...and I think it's approximately...it's between 350 and \$500,000 annually, will be continued through contributions on behalf of the corporate community in Omaha.

SENATOR CHAMBERS: Senator Hall, the amount you quoted, is that what the amount was before Ak-Sar-Ben itself discontinued it?

SENATOR HALL: Yes. Yes.

SENATOR CHAMBERS: Was that money, before they discontinued the program, partially coming from the track?

SENATOR HALL: Yes.

SENATOR CHAMBERS: Okay, thank you.

SENATOR HALL: Yes.

SENATOR CHAMBERS: So now what we have is the appearance that Ak-Sar-Ben is doing something which in reality Ak-Sar-Ben is not doing and I can understand why a lot of these big shots want Ak-Sar-Ben to continue to function. There are a lot of reasons but one of them is that they get a chance to have the ball. And, as I say again, nobody on this floor will ever have a chance to be the king, I will tell you that, and it brings me to a subject because when Harold Andersen was king, that queen could have been his granddaughter or his great granddaughter. In fact, whenever they trot these old geezers out there the queen is always a young, what they call, fox. That seems somehow wrong to me. I know it reflects what happens in society but doesn't that make anybody raise an eyebrow and ask a question? But whenever one of these devils gets in trouble or has an attack of some kind, what's the first thing they will do? They will drag their wife out and have her standing by his side or writing articles in the paper saying, my husband is the greatest man in the world. Gary Hart, caught on the "Monkey Business", engaged in monkey shines with a young woman, a young fox again, sitting on his lap and his wife had to choke back her tears, bite her tongue when she should have been biting his head off, and said, my husband is a good man. Then I had a couple more of those guys down here. Mayor Marion Barry, this shows that it crosses racial lines too. Marion Barry, the Mayor of Washington, D.C., set up through a sting operation, but nevertheless there he was in a hotel room with a young woman, again a young fox, and they got him. Then the next day his wife has to be out there standing by his side, the long suffering, loyal wife. But if Marion Barry's wife had been caught in a hotel room with another man, if Gary Hart's wife had been photographed sitting on the lap of another man, would these men be standing next to their wives supporting them and saying, my wife is a good woman and she might have stumbled but I'm going to stick with her. How about old Harold? If his wife had committed an indiscretion, would he be out there? No. So some of these functions that these people want to utilize for the purpose of conveying some message or other will often backfire and convey a different message. Ak-Sar-Ben has not been the good citizen that they want everybody to think they have been. In the old days when they would donate an emergency vehicle to some small town, what was that out of what they had and what they were deriving? When the horse races come here and, based on what the police division says, prostitutes and other people who commit crimes follow the horses here, what effort does

Ak-Sar-Ben put out to underwrite or offset the increased cost of law enforcement caused directly by the horse-racing activity? They always want the state and the people to give them something. I had said when the Legislature gave Ak-Sar-Ben tax breaks that eventually Ak-Sar-Ben is going to want the state to underwrite and subsidize them directly and we're getting closer and closer to it. They're going to squeeze the bettors who may be foolish to participate in that kind of activity but nevertheless the Legislature should not legalize a greater amount of thievery than occurs right now through the method by which Ak-Sar-Ben and any other track can skim money off the top of the pot. It should not be done. Ak-Sar-Ben, as a race operation, is a dying industry in Nebraska. They're coming back for another tube from the life support system. They're always taking and taking and taking and never give anything back.

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: I want to ask Senator Hall one more question. Senator Hall...

SENATOR HALL: Yes.

SENATOR CHAMBERS: ...is Ak-Sar-Ben a part of Omaha? Have they been annexed? Because some of those things slipped by me.

SENATOR HALL: Senator Chambers, I can't answer that question. I don't know. They are within the city limits of Omaha. Their property, for purposes of taxation, is considered agricultural property and it is tax exempt.

SENATOR CHAMBERS: So then they're not paying any property tax?

SENATOR HALL: No, they're not.

SENATOR CHAMBERS: Ah-ha.

SENATOR HALL: The only...currently, during the three-year period that we're in right now after the '87 law was passed, the only tax I know that they're paying is a sales tax on concessions.

SENATOR CHAMBERS: Ah-ha.

SENATOR HALL: But again there is the 2 percent tax but it flows

back as a credit.

SENATOR CHAMBERS: Ummm hmmm. All right. So here Ak-Sar-Ben is taking, taking, taking. I hope you will adopt this amendment and I hope you will listen very carefully to Senator Hall as he explains this breakage...

SPEAKER BARRETT: Time.

SENATOR CHAMBERS: ...and tells you why Ak-Sar-Ben should be allowed to steal that in addition to what they're stealing already with the help of the Legislature from the bettors.

SPEAKER BARRETT: Discussion on the Chambers amendment to the amendment. I have a number of lights on. If you don't want to speak to the Chambers amendment, please waive off. Senator Nelson. Thank you. Senator Schellpeper.

SENATOR SCHELLPEPER: Thank you, Mr. Speaker, and members, I would like to ask Senator Chambers a question if I could.

SPEAKER BARRETT: Senator Chambers, would you respond, please. Senator Chambers.

SENATOR SCHELLPEPER: Senator Chambers, if we would pass a resolution here, recommending that you be made a...king of Ak-Sar-Ben, would you support this?

SENATOR CHAMBERS: Whoever was...Mr. Chairman and members of the Legislature, whcever was the chief sponsor of that resolution would have to run for his or her life.

SENATOR SCHELLPEPER: (Laughter.) Thank you. I will let Senator Hall answer Senator Chambers. Thank you.

SPEAKER BARRETT: Senator Hefner, would you care to speak to the amendment? Thank you. I am removing these lights and then please put them back on if you want to speak then to the amended amendment. Senator Landis.

SENATOR LANDIS: Mr. Speaker and members of the Legislature, I rise to oppose the Chambers amendment and support the committee amendments as originally proposed. Serve on the Revenue Committee and I have been a critic of the Ak-Sar-Ben issue over time. I was a critic of the bill as it was originally

introduced and I was a critic of the first two or three proposals brought back to us by the Ak-Sar-Ben group. Finally, at the very end, it did seem to me that a case had been made that Ak-Sar-Ben was in need of some assistance, that the other tracks as well benefited by the package, that it was good for the horse-racing industry in this state and that this major tourist attraction needed a reduction in its tax to continue to operate, to continue to improve and to retain a competitive place in the marketplace of gambling that's developing in the Middle West. I support the committee amendments as originally adopted and oppose the Chambers amendment.

SPEAKER BARRETT: Thank you. Senator Peterson, on the Chambers amendment. Thank you. Senator Labeledz. Senator Rod Johnson.

SENATOR R. JOHNSON: Mr. President and members, I oppose the Chambers amendment and would support the committee amendments as presented by Senator Hall. You know, the horse-racing industry is a multimillion dollar industry and rather than beat around the bush I will get right to the point. Senator Schmit has often referred to a senator who said that this horse-racing industry is not a gambling industry, it's an agricultural industry. Well, that was my statement about five years ago and, quite frankly, it is an industry that we depend upon. I have a number of horse breeders in my district, a number of folks who raise horses for the thoroughbred industry and they do consume a lot of oats, and corn, and grain, and alfalfa, and straw and that is important to us in the production agricultural area. I will be honest with you, if you could make a video slot machine or a pickle card machine that it can...I can stuff alfalfa or oats into, I would probably support that industry just as much. But, but it is important, both from the tourism standpoint and the agriculture standpoint. It makes a big impact, just ask the folks in Grand Island right now as the Fonner Park season is going on right at this moment and the impact of dollars that that industry brings, not just to the track but to the communities in which they're located, where those tracks are at. And so if we can do something to help the industry survive, even though we realize it's having its tough time of surviving, if we can do something to help them, I think it benefits the entire state. So I would oppose Ernie's amendment and support the original committee amendment.

SPEAKER BARRETT: Senator Hall, please, on the Chambers amendment.

SENATOR HALL: Thank you, Mr. President, and members I rise to oppose Senator Chambers' amendment, but, clearly, he makes some good points. The breakage issue is not something new or is not something that the committee amendments addresses or changes in any way from past experience. It has been that way for a number of years. I can't remember when it was put into place. It wasn't any time in the recent, at least the last 10 years, and I think it was sometime during Senator Schmit's tenure here because I think it might have been a Senator Schmit amendment that put the breakage provision into statute. What the breakage was last year was it was \$608,000; \$608,000, those pennies added up. Senator Chambers is clearly right. And that does flow back to the track, but only 50 percent of that flows back to the tracks, only 50 percent of that. So \$304,000 went back into purses so it did go back out to the bettors. Three hundred and four thousand was kept by the tracks, divide that amongst the tracks but I'm sure Ak-Sar-Ben kept the lion's share, probably two-thirds of that, because I think two-thirds of the wagering is done there. But the issue of breakage is not changed by these committee amendments at all. It is included in all the new language again but that we don't change the percentage at all, we don't round it differently than we have in the past. It is clearly an up or down issue. I'm not going to stand here and defend it because it's not easily defended other than it's the way things have been done. There was a policy decision made and folks came in and said, look, that breakage ought to go here, it ought to go to the track to a certain extent and a certain portion of it, 50/50 ought to be split with the bettors. I can tell you there are bettors in my district that would like to see the breakage go to the purses a 100 percent. That's what, basically, Senator Chambers' amendment would do. But we have done it that way in the past. Outside of historic precedent, I guess, there isn't a very good argument for it but then I guess the questions arises, why did we give it to the tracks in the first place? It makes little sense to me when you've got an industry that is on the road, so to speak, that you now go in and take away something that you have given them years past when they probably were in a much better condition than they are today. That purpose or the reasoning for that is before my time. But all you do with the breakage is you take half of what was raised and in 1989 that figure was \$608,000 across the state. Half of it goes to the purses, half of it goes to the tracks. If you adopt Senator Chambers' amendment, you do put that other half back in with the purses but I would argue that

there has to be a good reason for it and outside of, I guess, you know, fair play or making the odds better for the gambler, I don't see it. It's not easy to defend but I'm going to oppose it anyway. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. Senator Schmit, would you care to discuss the Chambers amendment? Senator Nelson, on the Chambers amendment. Senator Hefner. Senator Peterson and Senator Labedz, on the amendments. Thank you. Senator Chambers, would you like to close?

SENATOR CHAMBERS: Yes. Mr. Chairman and members of the Legislature, I'm just trying to seek some basic equity for those people who do go to the track and gamble. The only way you could describe them as a single constituency is by virtue of their making wagers at the track. Other than that, there might be disenchanted, irritated members of the public who make these wagers who are offended at this breakage that the track is allowed to keep. The track should not be allowed to keep that. The track should not rely on it. And if half of it goes to the track and the other half to the purses, it's just like rolling over your money and saying, now we have got something for you to bet on which is made up of that which was yours in the first place. There are other people who are not even aware that such a thing is what we're talking about occurs. And I don't think that while the Legislature is on the verge of increasing the amount that the tracks can take from the pot and thereby diminishing what is available for the bettors to get back, I don't think we ought to do this in addition. And by "do this in addition" I'm talking about let the track keep this breakage. If my amendment is adopted, the amount of money that the track will not get is not large enough to hurt the track in any manner. There are people who earlier today, when we were talking about the bingo and the pickle tax, had said that the amount of money that the cities will lose is not that great. The amount proportionate to the total taken by the track is even less than that if you adopt my amendment. So if when we're talking about the pickles and the bingo we're going to lower the tax, because the total amount that the cities lose is not that great, at least the amount that the cities were taking was based on a legitimate exercise of a legitimate governmental function which is that of taxation. This that we're talking about is something that should not be a part of wagering. When you bet a certain amount such as on a sporting event you know what your chances are of winning because you bet 11 to win 10. But when

March 27, 1990

LB 866A, 1055
LR 395

you bet on a horse race, the only way you know what you're going to get is after all of the money has gone into the pot, the track has taken its, the taxes have been taken out and then you divide what's left among the people. But, in addition to that, the track is going to skim some more off. So I think this amendment is imminently fair. That's all that it does is try to bring a measure of fairness to this activity. So I hope that you will adopt this amendment.

SPEAKER BARRETT: Thank you. The question is the adoption of the Chambers amendment to the amendment which is the divided question, Section (a), which is Sections 1, 2 and 9, which deal with racing. Those in favor of the adoption of that amendment to the amendment please vote aye, opposed nay. Have you all voted? Senator Chambers.

SENATOR CHAMBERS: I would like a record vote.

SPEAKER BARRETT: A record vote has been requested. Record, please.

CLERK: (Record vote read. See pages 1643 of the Legislative Journal.) 1 ayes, 17 nays, Mr. President, on adoption of the amendment to the amendment.

SPEAKER BARRETT: The motion fails. Mr. Clerk, have you items for the record?

CLERK: I do, Mr. President. Mr. President, Reference Report on a gubernatorial appointment. (See page 1643 of the Legislative Journal regarding appointment of Laurie Camp, Commissioner of Industrial Relations.)

Mr. President, a new A bill, LB 866A, by Senator Lamb. (Read by title for the first time. See page 1644 of the Legislative Journal.)

That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. While the Legislature is in session and capable of transacting business, I propose to sign and I do sign LR 395. Mr. Clerk.

CLERK: Mr. President, Senator Chambers would move to amend the committee amendments. Would you like me to read, Senator?

SENATOR CHAMBERS: Yes, would you read it?

CLERK: (Read the Chambers amendment as found on page 1644 of the Legislative Journal.)

SPEAKER BARRETT: The Chair recognizes Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, what I'm talking about is a winning ticket on a horse race that is not cashed. The track, right now,...I would like to ask Senator Hall a question so that I won't misrepresent anything.

SPEAKER BARRETT: Senator Hall.

SENATOR HALL: Yes.

SENATOR CHAMBERS: Senator Hall, when tickets...when winning tickets are not cashed, what becomes of the money that would have to pay off those tickets?

SENATOR HALL: When the tickets go unclaimed, Senator Chambers, the...it's my understanding that the proceeds go to the track.

SENATOR CHAMBERS: Thank you. Members of the Legislature, there is no way anybody can say that the track has a right to this money. What I'm talking about are winning tickets that for some reason the holder of the ticket does not cash in. That money should not go to the track because somebody risked something and actually won. So rather than allow it to go to the track for any purpose, it is money which the track should not have and which the track has no basis to count on, put it in the unclaimed property fund. And the reason I said it would be handled as any other unclaimed property, if a person could produce the winning ticket, then I'm sure that there are some rules that the treasurer has for the purpose of determining who has a right to property which has not been claimed. And then after a certain period of time has passed, I'm sure that maybe that property goes, or the value of it, to the General Fund or someplace. But, in any case, however other unclaimed property is handled, this would be handled in the same manner. If I have money in a safety deposit box, if I have bonds or some other thing of value that somehow winds up being unclaimed by me at a time when it should be and those who are the custodians are going to dispose of it, it goes to the State Treasurer. So if

money which I have deposited in a bank account or something of value that I have left in a deposit box finds its way ultimately into the unclaimed property fund, then this money which should be paid out when a winning ticket is cashed should go to the unclaimed property fund also. The bank is not allowed to say that because this money was lying in the bank for this period of time, even though they were using it and making interest on it should become the bank's money, that's not done. The valuables in these deposit boxes do not become the bank's property. Bonds which have not been cashed do not become the property of the custodian if that custodian is not the rightful holder of the bonds, the one with the right to cash them in. So why should the track be able to say that this money which should go to the public becomes the track's money? It is unjust, it is unfair. It's a windfall that the track is not entitled to have. As a collective body, the Legislature has given Ak-Sar-Ben tax breaks. This bill, if the committee amendment is adopted and the bill itself is enacted, the track will be allowed, off the top, to take a greater percentage of money out of the bettors' pot. In addition to that, you say that the breakage is going to stay in the track's hands to be used as they see fit. Then on top of that money which was won, which the track lost, is going to be given to the track also. No entity in this society should have that kind of power, but Ak-Sar-Ben does. And Ak-Sar-Ben is obtaining largess to which it is not entitled. If there is anybody who can give me a rationale for allowing the track to keep this money, I want them to tell it to me and maybe I will be convinced. I would like to ask Senator Moore, he's just kind of sitting there taking this all in. Senator Moore...

SPEAKER BARRETT: Senator Moore.

SENATOR CHAMBERS: I know you have a strong sense of justice and fair play, that's why I'm asking you this question. Does it offend your sense of justice to allow the track to keep for its own purposes and as its own money which should be paid out on winning tickets?

SENATOR MOORE: I just walked in, Senator Chambers, I...

SENATOR CHAMBERS: That's why I was...

SENATOR MOORE: I agree with...what you said makes sense to me but I don't know what all there is other than that.

SENATOR CHAMBERS: That's why I just wanted a statement from you based on your sense of justice and his sense of justice is outraged and I thank you, Senator Moore. Senator Schellpeper.

SENATOR SCHELLPEPER: Yes.

SENATOR CHAMBERS: Senator Schellpeper, does it seem proper to you that the track should be allowed to keep this money that it ought to pay out on winning tickets but for some reason the holder of the ticket does not cash in?

SENATOR SCHELLPEPER: Yes, I think the track should keep it. If we're trying to give...help the tracks with a tax break, it doesn't make sense to turn right around and take some money away from them.

SENATOR CHAMBERS: I'm not talking about tax money, I'm talking about money that the holder of a winning ticket is entitled to.

SENATOR SCHELLPEPER: I realize that, but you're also taking away money that the tracks use now to upgrade their facilities.

SENATOR CHAMBERS: So you think this is a just disposition of that money, in short?

SENATOR SCHELLPEPER: What's being used right now, yes, I do.

SENATOR CHAMBERS: Okay. Senator Hannibal, may I ask you a question?

SPEAKER BARRETT: Senator Hannibal, would you respond?

SENATOR CHAMBERS: Senator Hannibal, do you feel that this is...wait a minute, rather than ask a leading question, do you think the amendment is reasonable which says that the money that should go to pay for these winning tickets, if not claimed in six months, should be put into the unclaimed property fund?

SENATOR HANNIBAL: No.

SENATOR CHAMBERS: You think that's unreasonable?

SENATOR HANNIBAL: Yes.

SENATOR CHAMBERS: Sit down. No, seriously, right, you can

continue with your answer.

SENATOR HANNIBAL: I know I shouldn't a come back to my chair, but since I'm here I will. I, by the way, would put an analogy to it and suggest that you probably, as all of us, have been approached by charitable types of operations, selling raffle tickets and doing all kinds of things that are raising money, Girl Scouts, Boy Scouts, whatever kinds of different organizations, and a lot of times I'll buy those raffle tickets and then I'll just give the raffle ticket right back to them or I will just not claim a prize if I ever get it and suggest they give it to somebody else. Could be that a person that purchased a racing ticket decides just to make a contribution to that horticultural society and decided even though they won they didn't want to turn it in because they wanted to give the money back to the track.

SENATOR CHAMBERS: When this man leaves does somebody take his hand and lead him across the street? Mr. Chairman, I think my time is probably up so I will sit down at this point.

SPEAKER BARRETT: Thank you. Discussion on the Chambers amendment to the amendment. And, again, I will go through some lights and please waive off if you don't care to discuss it. If you do, the floor is yours. Senator Labedz. Thank you. Senator Hefner. Senator Peterson. Senator Nelson.

SENATOR NELSON: Mr. Speaker, could I ask Senator Chambers a question, please?

SPEAKER BARRETT: Senator Chambers, would you respond?

SENATOR NELSON: Senator Chambers, would you have the vaguest idea of how many dollars we're talking about that are unclaimed tickets?

SENATOR CHAMBERS: You want a vague, a vague estimate?

SENATOR NELSON: Please.

SENATOR CHAMBERS: Oh, I would say about \$150 million.

SENATOR NELSON: All right, then if that went for supporting...this is just a few of the things and this debate always centers around Ak-Sar-Ben, but these are a few of the

149 days at Fonner Park that supported 107 events, the police department, the bicycle rodeo, the Harmony Club, 4-H Club, 4-H horticulture judging, county fair, swine show, the 1988 Hall County Fair livestock sale, the extension clubs, Leadership of Tomorrow, St. Francis Hospital Auxiliary rummage, kids' volleyball funfest, the sheriffs' posse, so on and so forth. Would you be against then their support of some of these very worthwhile projects that some of that money I'm sure maybe...maybe goes for that, of the 107 events that are...sponsored by Fonner Park?

SENATOR CHAMBERS: Would you ask me that question again because I was being...

SENATOR NELSON: All right, your answer is yes, Senator Nelson, I would have no objection for Fonner Park supporting these very worthwhile community events.

SENATOR CHAMBERS: No, I'm not Charlie McCarthy, you're not Edgar Bergen. Ask me that question again, but based on your answer I would say, no, my answer to that question is no, I'm not in favor of them because I think they have padded the list. I think they exaggerate about the amount they give. And if you check the percentage that they donate to charity, it probably comes to less than 1 percent.

SENATOR NELSON: Well, I've got my list right down to the day and the section of Fonner Park that it was held in, so I hope...

SENATOR CHAMBERS: Who gave you that list?

SENATOR NELSON: This list was supplied by Fonner Park.

SENATOR CHAMBERS: Oh, I rest my case.

SENATOR NELSON: Thank you. That's the end of my questions of Senator Chambers for right now.

SPEAKER BARRETT: Thank you. Senator Schellpeper, on the Chambers amendment. Thank you. Senator Hall.

SENATOR HALL: Thank you, Mr. President and members, I rise to oppose the Chambers amendment. Again, the issue of the unclaimed tickets is just a policy decision, I guess, you know, you can vote it up or down. It amounts to \$208,000 across the

state. So when you're talking about a handle of over a \$150 million, the winnings that aren't claimed and if you figure that there is approximately 80 percent, 75, 80 percent that's paid back out, in the win, place, show bets it's even greater, it's 85 percent, you're talking about a very small portion of tickets that go unclaimed, \$208,000 for 1989. So it isn't a big issue and I guess, again, it is something that deserves debate. I am not going to stand here and say that it shouldn't go to unclaimed property in the Treasurer's office. My...but I don't know that it should either because my understanding...with regard to unclaimed property was that normally that was items that...examples that Senator Chambers gave were safe deposit box, accounts, and things like that that could at least be tied to an individual or tied to an individual's estate. This is something that is tied to a ticket that has a number on it and we don't really know who is the owner of that or who might be the recipient of that ticket. I...I mean, it clearly is a difficult thing to tie down. I think that's one of the reasons why we...whenever we did do this, as a legislative body, put the unclaimed prizes back into the track, it does help the track, but \$208,000 on an overall wagering handle of over 150 million is not a lot of money when you get down to percentages. So I would just urge you to decide for yourself whether or not you feel it ought to flow back to the track or go over to Frank Marsh's office.

SPEAKER BARRETT: Apparently there are no other lights on to discuss the Chambers amendment. Senator Chambers, would you care to close? Yours is the last light.

SENATOR CHAMBERS: My light's on, right.

SPEAKER BARRETT: Yours is the last light.

SENATOR CHAMBERS: Right, but I want to speak on my light and then if I finish before the five minutes...

SPEAKER BARRETT: Proceed.

SENATOR CHAMBERS: ...then I will let that be my close.

SPEAKER BARRETT: Proceed.

SENATOR CHAMBERS: But if I run out of time, okay. I don't plan, members of the Legislature, to take much time on this

because I know which way the wind is blowing on every one of these amendments that I have offered. But I have a reason for doing it. I want to have some things in the record for future reference or present reference to show how Ak-Sar-Ben can run through this Legislature and work its will. Even propositions that are just and fair cannot be given consideration. The same people who are being suckered by the track are being exploited by the Legislature. Nobody here is speaking for the people. All those who are voting on this bill are voting for Ak-Sar-Ben and Ak-Sar-Ben's desires. I would like to ask Senator Hall a question. And this is one reason I wanted to preserve some time because it may take him a little while to answer.

SPEAKER BARRETT: Senator Hall.

SENATOR CHAMBERS: Senator Hall, what would you say the total percentage of Ak-Sar-Ben's take has gone to charitable contributions?

SENATOR HALL: Very little.

SENATOR CHAMBERS: And they don't pay any taxes though?

SENATOR HALL: Uh, well, they do, Senator Chambers, as I stated earlier, pay some sales tax in the last two years and during this current year.

SENATOR CHAMBERS: Right, on those, yeah, on the . .

SENATOR HALL: Right, but in terms of property tax or parimutuel tax, in effect, they pay no tax over the last two years and through 1990.

SENATOR CHAMBERS: What do you think the value of Ak-Sar-Ben's property would be, that would be subject to a property tax?

SENATOR HALL: The value, I could only guess, but it would be in the, I would guess, close to \$100 million, I would guess, but I don't know. It would clearly be in the tens of millions.

SENATOR CHAMBERS: And Ak-Sar-Ben continues to come to us and speak of themselves as an industry and a business, what other business has that much property but pays no tax on it?

SENATOR HALL: ConAgra? No, I don't...I don't know of any, to

be honest with you, except for maybe the Catholic church.

SENATOR CHAMBERS: Senator Labedz, I expect you to straighten this young man out the next time you get the microphone. But, Senator Hall, based on the relatively small amount that Ak-Sar-Ben has given to charity, that in itself could not be a basis for its being allowed to be untaxed, would it?

SENATOR HALL: No, no, it shouldn't be.

SENATOR CHAMBERS: But when most people think if Ak-Sar-Ben they think of it as a charitable operation, don't they? Oh, let me...let me not put the question that way. Is that the way people will have Ak-Sar-Ben portrayed and presented to them?

SENATOR HALL: I don't really think so. I think at one time that was probably the case. I don't think that is true anymore.

SENATOR CHAMBERS: Okay, now if the scholarship fund that exists now is created from donations by corporations, then that little bit of charitable donation no longer comes from Ak-Sar-Ben?

SENATOR HALL: That's correct.

SENATOR CHAMBERS: And even before that they were giving a small amount?

SENATOR HALL: It wasn't a great percentage of their overall revenue.

SENATOR CHAMBERS: What do you see as a justification for the Legislature to continue to give Ak-Sar-Ben this type of consideration we're doing today?

SENATOR HALL: It...and I appreciate that question, Senator Chambers, and the opportunity to answer it because I, as you know, have a real problem, not with the horse-racing industry, because I like to go to the track. I go to the track probably three or four times a year and I thoroughly enjoy myself. I don't bet a lot of money but I like to watch the horses run. I don't have a problem with the track in Lincoln. I don't have a problem with the track in Grand Island and I don't have a problem with the track at Columbus or at Atokad. The problem lies at Ak-Sar-Ben and the problem isn't in the fact that it's a track because I think if you were to strip away the way...strip

away the structure of Ak-Sar-Ben's hierarchy or the way that it's operated, you would not have the kind of feelings of animosity, I guess, toward Ak-Sar-Ben that are currently there because people don't complain about Lincoln, the Fairgrounds, they don't complain about Grand Island, but we complain about Ak-Sar-Ben and I think probably rightly so because their attitude has been one of...

SPEAKER BARRETT: One minute.

SENATOR HALL: ...as you have pointed out, that we...what is good for Ak-Sar-Ben is good for the rest of the industry and in some cases that's probably true. But it irks me to no end that they, in many cases, in the not so distant past have thumbed their nose at us and I don't think they do enough in some of these areas. I think the administration they have in place now has started to change that mentality. But until you strip away some of the things that you talked about, the ball for the old croakers and the young foxes, till you start to get at some of those kinds of things and you start to open it up to the blue collars and the no collars, you're going to continue to have a group of people...and a lot of the people that I represent and that go to the track and push some money through the window feel like they're not really a part of what Ak-Sar-Ben is all about.

SPEAKER BARRETT: Time.

SENATOR HALL: Can we now go into your close?

SPEAKER BARRETT: Senator Chambers, on your closing time.

SENATOR CHAMBERS: Yes.

SENATOR HALL: And they have a real problem and I think they're justified in that position. It is not easy for me to carry this bill. It's much more easy to carry it based on the first two committee amendments that were adopted but there is still that feeling out there amongst the people who play at the track, who push the money through the window that, you know, it's run by corporate Omaha and we don't have a say in what goes on. They can shut down the shows and we don't have anything to say about it because they weren't making any money on it so they determined that it was just a business enterprise and we shouldn't continue to offer this anymore. There are a number of things about Ak-Sar-Ben that I don't like and it stems from the

fact that they do have a rather blue-blood approach to things. But I look at the overall impact that it has on not only Omaha but the state in general because they do provide funds to the small tracks, they do provide a number of things to the industry across the state.

SENATOR CHAMBERS: Senator Hall, may I ask another question now?

SENATOR HALL: So it's positive. Sure.

SENATOR CHAMBERS: How many jobs had somebody...I don't know if you mentioned the figure of how many jobs are involved at Ak-Sar-Ben.

SENATOR HALL: I think it's approximately 50 full-time jobs, but I didn't mention it. It was 50 to 60 after the reorganization.

SENATOR CHAMBERS: I thought somebody had said over a thousand.

SENATOR HALL: Well, excuse me, I think you're referring to Senator Johnson's comment about the industry across the state.

SENATOR CHAMBERS: Oh, okay, but Ak-Sar-Ben would have about...

SENATOR HALL: Under a hundred.

SENATOR CHAMBERS: Do you know what percentage of those would be available to nonwhite people?

SENATOR HALL: No, I don't. I would not.

SENATOR CHAMBERS: Between now and Select File, can you talk to the people at Ak-Sar-Ben and have that information for me?

SENATOR HALL: Sure. And, Senator Chambers, when I say under a hundred, I'm talking about the year-round, full time staff and I think it's closer to under 50. But when they're at home, when the season is on and they're racing, there are, I think hundreds of people that are out there but they're not necessarily working for Ak-Sar-Ben, they're working for the owners and the breeders and the...

SENATOR CHAMBERS: Who has control of the concessions at Ak-Sar-Ben? Is that by contract to somebody, or that...

SENATOR HALL: It is.

SENATOR CHAMBERS: ...is Ak-Sar-Ben?

SENATOR HALL: No, it is under contracts and I can't tell you what the name of the contractor is, off the top of my head.

SENATOR CHAMBERS: Okay. My final question, so that the amendment is clear that I'm asking to be adopted, it would put the money in the unclaimed property fund.

SENATOR HALL: Correct.

SENATOR CHAMBERS: How much would it hurt Ak-Sar-Ben if this amendment were adopted?

SENATOR HALL: Oh, as I stated, we're talking about \$208,000 over the entire season of 1989. I would guess the Ak-Sar-Ben in this case would probably make up closer to three-quarters of that amount. You're only talking about \$175,000 worth of hurt.

SENATOR CHAMBERS: Is that too heavy a price to place on justice?

SENATOR HALL: If...if you thought this was...this equated to justice, I would say no.

SENATOR CHAMBERS: Do you think it's unjust to do it?

SENATOR HALL: I think it's a fair amendment that deserves fair consideration and I think that's what it's been getting. And I...it's not easy to vote against it.

SENATOR CHAMBERS: Thank you, Senator Hall. Mr. Chairman, because we're sparse in numbers, I would ask for a call of the house.

SPEAKER BARRETT: Thank you. Shall the house go under call? All in favor vote aye, opposed nay. Record.

CLERK: 14 ayes, 3 nays to go under call, Mr. President.

SPEAKER BARRETT: The house is under call. Members, please return to your seats and record your presence. Those members outside the Chamber, please return. The house is under call.

Senator Warner, please check in. Senator Moore. Senators Abboud, Ashford. Senators Morrissey, McFarland, the house is under call. Senators Dierks, Haberman, Rogers. Senators Hefner, Dierks, McFarland and Haberman, the house is under call. Senators Haberman and Dierks, the house is under call. The question is the adoption of the Chambers amendment to the committee amendments. Those in favor of that motion please vote aye, opposed nay. Record vote has been requested. Record.

CLERK: (Record vote read. See pages 1644-45 of the Legislative Journal.) 8 ayes, 30 nays on adoption of the amendment, Mr. President.

SPEAKER BARRETT: The motion is defeated. Do you have anything further on the committee amendments?

CLERK: Nothing further on the committee amendments, Mr. President.

SPEAKER BARRETT: Thank you. The call is raised and we are back to a discussion of the committee amendments. Senator Labedz. Senator Labedz, would you care to discuss the committee amendments? Followed by Senators Hefner and Peterson.

SENATOR LABEDZ: Thank you, Mr. President. I mentioned before that I had a letter that was interesting and I asked Senator Chambers whether he represented a man that lived at 2756 Brown Street? And he said, yes, he did. So I think it's interesting that I read you part of the letter. It says, "With all the casinos going to be built in Council Bluffs and on the Missouri, it's causing a lot of problems for Ak-Sar-Ben. Some of this excess competition is unfair. I work there as a hotwalker", whatever that is, Senator Chambers, "and I have enjoyed it very much. It's the only job I have had for the full whole year. I have made a lot of friends. Now, question mark, what's going to happen? Ak-Sar-Ben will be closing in 1991 unless the state will be willing to extend a bigger tax break. It will be necessary when the casinos are built and Run running", evidently he means Bluffs Run, "please tell me you have concerns for over 2,000 jobs." So I inquired as to whether or not how many jobs were there at Ak-Sar-Ben during the racing season. And I was told at least 2,000. So this gentleman is telling the truth. During the track season there are 2,000 jobs there. Now, I know a lot of elderly people and retired people that work out there part time, only during the season, in order to earn extra money.

The letter goes on to say, "Ak-Sar-Ben will be at stake and more and more the horse-racing industry is in trouble. Ak-Sar-Ben may sell the track, that's a guess, but if they close the track, they could sell it as well." And then he says, "Please turn over. Please, I am frustrated and worry. I needed someone to write to you. Yours sincerely." So we do have people, even in Senator Chambers' district, that works at the track that are counting on that job and this young man or old man has said that's the only job I have. And, of course, if we would have done what I asked for a year or two ago and had built the convention center for the City of Omaha out at Ak-Sar-Ben, they wouldn't be asking for a tax break because I'm sure there would have been enough money there to keep the track going. As Senator Hall mentioned, there are shows that many, many people throughout the state enjoyed at Ak-Sar-Ben. Because they lost money on the shows, they had to close down the shows and I know that's very disappointing to myself too because I enjoyed the shows more than I did the horse racing. So I urge you to vote for the committee amendments. And, Senator Chambers, I am so happy to say that the pickles, the bingo and the race track are now all running together. Thank you very much.

SPEAKER BARRETT: Thank you. Senator Hefner.

SENATOR HEFNER: Mr. President and members of the body, I wish we could go back a few years and I think most of us wish we could go back a few years, go back to the...go back to the eighties when horse racing was flourishing. But it isn't anymore. The horse-racing business has more competition. We have new tracks in Minnesota and Iowa. Another one is opening in Kansas City and so you can see there is a lot more competition and also competition from the lottery in Iowa and other forms of gambling. But I want to get off of the Ak-Sar-Ben deal a little bit and talk about the other race tracks, the smaller tracks like in Grand Island and Columbus and in Dakota County, and I think there's one more, and in Lincoln here too. I guess we consider Lincoln a smaller track than Ak-Sar-Ben. But these race tracks do a lot of good for the community that they're located in. I know up in northeast Nebraska we have the Atokad race track and they have all kinds of different events, many of them, and most of them are related to agriculture. And this is what I like to see because during these agriculture events they have to have some large place to have them, where there's plenty of parking and also livestock facilities. And so they do a lot of good. They do a lot of

good for the community, a lot of good...they do a lot of good community projects. Also, we need to consider the horse-racing industry. Now I have heard a number of different figures but some of them say it's a \$300 million industry, others say it may be up to a \$400 million industry. But, anyway, it's a big industry here in Nebraska. It's a big industry for the breeders, for the racers, for the thoroughbreds and many, many people make their living doing this, training these horses, raising them and so they provide a lot of jobs and that helps our economy here in Nebraska. I don't spend much money on gambling. Sure, I'll go to a horse race now and then but I suppose you could say I go for the entertainment probably more than I do for the gambling aspect of it. But I think the horse-racing industry has been up front with the Nebraska people. The payback in the gambling of horse racing is about 85 percent and I realize we're changing that a little bit now but when you consider this with the lottery in Iowa the payback for lottery in Iowa is only 45 percent. So I believe that the horse-racing industry has really been trying to give the people, not only here in Nebraska but in the surrounding states, more bang for the buck, if you want to call it. But I think they have been up front with us. And, Senator Chambers, I know I have called you some names on the floor and I apologize for it, but I know I have called you "Speeder" Chambers, "Toe Crusher" Chambers and this afternoon I think it was mentioned as "Reverend" Chambers, but I was just wondering, maybe we could nominate you for King of Ak-Sar-Ben and that way we could call you King. No, I take that back, I apologize for saying that, but...

SPEAKER BARRETT: One minute.

SENATOR HEFNER: ...this is a very serious bill that we're considering this afternoon. We certainly need it to save an industry that will help Nebraska and help the economy in Nebraska. So I would hope you would consider a favor...consider voting in favor of this bill. Thank you.

SPEAKER BARRETT: Senator Peterson, followed by Senators Schellpeper and Nelson.

SENATOR R. PETERSON: Mr. Speaker and members, I rise to oppose the committee amendments. I think I speak in no avail. Senator Chambers and a couple of us are going to be sitting here probably voting not for this bill but it looks like it's going

to go pretty much very strong. Just a couple things I would like to put into the record, several have been said before but Ak-Sar-Ben pays no real estate or other taxes, thereby avoiding millions of dollars in revenue for Omaha and Douglas County. There was mention of a sales tax which I don't think they even pay because of the...on the concessions because it's handled by somebody else so they really don't pay anything there. I think the state needs to limit subsidizing the special interests at the expense of the private citizen and I think this is what's happening. I think Ak-Sar-Ben and other groups should become efficient and pay their fair share of taxes. Three years ago I did support Ak-Sar-Ben on the floor for a tax break and they said it emphatically three years, give us three years we'll...we'll have everything in order. Three years has come and passed and now they're back again. I wonder what they're going to be in another year or two. Are they going to be back begging or are they going to be closing the gates or what? It will be interesting to know. But I did, I did support them at that time. In my area right now there's a lot of people that belong to Ak-Sar-Ben. I haven't talked to one that has told me since this came up that I should support this tax break. They said three years is enough and several of them had told me that even a lot of people in Omaha that they know of are not very supportive of Ak-Sar-Ben, the way they have handled their things financially and the racing industry down there, that they know of people down there that's not very supportive of Ak-Sar-Ben right now. As you many of you probably know, we used to have races in Madison. I know some horsemen up in our area have been turned away from Ak-Sar-Ben in the past three years, until this very season when they're about ready to race in Ak-Sar-Ben when they've got some very fancy stationary saying, please come back to Ak-Sar-Ben, come back. What break are we giving the people out there that we're not giving a lot of the farmers or anybody any tax breaks but, by golly, we can do it for the big one, Ak-Sar-Ben. Boy, we can give them a tax break but, boy, the farmers or businessmen and stuff like that we're saying no. I think the more gambling that comes aboard, which I see happening, it's going to hurt Ak-Sar-Ben more. I can never figure out why Ak-Sar-Ben didn't fight to keep a lot of this gambling from happening, the pickles and everything, but they seem to let it go. And I think one thing you're going to see that I'm hearing from other states is regards to gambling issues where they went extensively to so many lotteries and horse racing and everything that they're finding...and I think you will probably start seeing in here, it will be interesting to

see some of these towns, little towns that have picked up on the keno and the lottery about the church receipts are going down and I...it's come very strong from a couple states, in particular, California, where I have some relatives. So it will be interesting to see in that respect. And it's interesting to, like Senator Chambers said, churches advocate gambling which is wrong, in my estimation, but...

SPEAKER BARRETT: One minute.

SENATOR R. PETERSON: ...so I know this isn't a greased horse, it's going fast to the finish line, probably already passed almost but let Ak-Sar-Ben stand...let Ak-Sar-Ben stand on its own two feet and get its own house in order, it hasn't. It should be run like a business and not an institution protected by the government. People think gambling is...some people are getting the attitude that gambling is the salvation of all things and I think it's the ruination of a lot of things. I thank you for the time and I will be opposing the amendment. Thank you.

SPEAKER BARRETT: Senator Schellpeper.

SENATOR SCHELLPEPER: Thank you, Mr. Speaker, and members, it seems like everyone refers to LB 1055 as the Ak-Sar-Ben bill. This is not only the Ak-Sar-Ben bill, this is for the entire racing industry. The small tracks gain probably more than what Ak-Sar-Ben does because with...if Ak-Sar-Ben goes down, the rest of them will go down. It's an industry, it has to operate as an industry for the whole state. We can't just have one track in Nebraska, we need them all. Ak-Sar-Ben happens to be the largest one. It's very important to everyone of them. I think Senator Peterson is probably right about the shows at Ak-Sar-Ben. We're not talking about shows. We're talking about the racing industry here. We need to do more things to help an industry that's going down. Senator Lindsay always says that he will do anything to help agriculture. This will help agriculture in a round about way because Senator Johnson mentioned about the oats and the hay and everything else. So these amendments should be approved as they were presented. Thank you.

SPEAKER BARRETT: Senator Nelson, please, followed by Senator Chambers.

SENATOR NELSON: Mr. Speaker, I, too, I know people refer to this all the time as an Ak-Sar-Ben bill. I feel like Senator Schellpeper, we have other communities and particularly Fonner Park, I guess that's about the second largest, but we have Columbus and South Sioux City and the state fair. In my community, Fonner Park is about the biggest or the only really...besides maybe Stuhr Museum, a true tourist attraction or that is available since the defeat of the convention center. And, as I mentioned before, 107 events, and that is from the state 4-H show is there. There was a big red barn donated by one of the business people in Grand Island, I think at \$110,000 for state horse shows and racers. Again, back to the agriculture input, I believe there was...it is figured that there are 540 eighty-acre farm tracts. There are 1,300 foals that were raised, colts in Nebraska last year. Fonner Park's payroll is a large thing in Grand Island. That payroll is over \$880,000 a year, about 85 employees, 200 during the racing season. That does mean a lot. And the same thing as Senator Hefner said, a \$300 million industry. We're talking more than just putting a dollar in of my grocery money or something and hoping to get an immediate dollar back. The sales tax of Fonner Park last year was to the Nebraska Department of Revenue \$33,000, and sent to the IRS \$159,000; their total payroll, \$324,000. So, in essence, and all over from...these are figures from about 1980, \$34 million payment to other industries by the whole racing industry, back some time ago. So the state, I'm sure, would lose a lot more revenue should these tracks close than they are by giving some additional tax loss. I might also mind you that we need to pass this bill this year, otherwise we will revert back to the 4 percent tax and that is particularly a concern of mine from Fonner Park and it has happened in a number of times and we have adjusted the tax because of the fact that Fonner Park runs early in the season and you cannot give tax back that you have collected. So they...doesn't seem fair but that's how it comes out. They would, again, be a loser. Something was said on the tracks and I...or on the floor in regards to maybe some of the pickle card suppliers and, as Senator Schmit said, I've heard that many times, they can bring them in by the truckload so who are you kidding? I want to remind the body that the Racing Commission last year did a very thorough investigation or the Racing Commission was investigated and I know we talk about five and six million dollars now that we don't pay, I don't think it would be that, with the competition. What we're seeing now is the competition from the new track in Kansas City, Minnesota, Iowa and so on and I

know...I'm not saying it's not gambling that goes on there but there is a heck of a lot more goes on than just racing at Fonner Park and I'm sure the same...I know the same is at...

SPEAKER BARRETT: One minute.

SENATOR NELSON: ...the state fair. Another thing is we talk about this as an Ak-Sar-Ben bill. The simulcasting is about one-third of the revenue in Fonner Park and that simulcasting does help the small tracks. And if we don't have Ak-Sar-Ben, it won't be very long that we will not have the other tracks. It would be impossible for them to draw horses in and, as I said again, it is a lot to the agriculture economy, the racing industry. Another thing is the very fine entertainment that is brought to Fonner Park, \$10 a carload, and this draws people from Kansas to the South Dakota borders. So there is a lot more to it than simply giving up gambling or a little bit of revenue. It is well supported in my area. I don't know of anyone that speaks negatively of Fonner Park and I know the management and they...

SPEAKER BARRETT: Time has expired.

SENATOR NELSON: ...try.

SPEAKER BARRETT: Senator Chambers, followed by Senator Schmit.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I would like to ask Senator Nelson a question. Senator Nelson, how many foals did you say were...

SENATOR NELSON: Thirteen hundred.

SENATOR CHAMBERS: Are they registered and do they vote?

SENATOR NELSON: Well, they're probably registered and they have names like Senator Nelson Chamber and Beauty Queens and all such and forth and I'm not so sure that they vote. But it sure helps buy the straw from the farmers.

SENATOR CHAMBERS: Thank you, and probably if they voted, they would vote as intelligently as some of the votes that are going to be cast on this floor. This is a soak-the-suckers bill with the suckers being the bettors, being the public. That's what the purpose of the bill is for, to rob them even more. There is

no nicer way to say it, no more truthful way to say it. I just regret that such a good man and a good person as Senator Hall has to soil his hands and his reputation by being associated with such a nefarious piece of legislation, but there are other interests that he had in mind than Ak-Sar-Ben. But a part of the price of trying to achieve the goal he had in mind for those other interests, a part of the price was to deliver his soul to Mephistopheles. That's what he had to do. But, to be honest, Deacon Dan Lynch is gone, Tim may not believe in these things anymore than I do, but the fact of the matter on this bill is this, Ak-Sar-Ben comes year after year after year. Ak-Sar-Ben represents a very small elite group of people. In order to benefit and give Ak-Sar-Ben what they want, it's necessary to harm thousands of other people year after year after year. Ak-Sar-Ben is never going to be satisfied and I cannot blame them nor can I blame their lobbyist when you have a group of suckers bump their head. The Legislature is as big a group of suckers for Ak-Sar-Ben as the bettors except that the suckers in the Legislature can be intimidated and coerced. That's what's happening here. These little tracks that Senator Nelson mentions in all seriousness and sincerity; Columbus, and these others, as Senator Schellpeper talks about; Senator Rod Johnson straining to try to make this a bill to benefit agriculture just indicates how uncomfortable people are with what we're really doing and has to be called by anything other than what it really is. This bill, if it passes, is not going to benefit agriculture. And if Senator Schellpeper knows so little about agriculture as to think that the oats and hay that those horses eat are going to turn around the agricultural economy in Nebraska, if Senator Hannibal who revealed his acuity earlier would join hands with Senator Schellpeper who just revealed his, they would both fall into the ditch. And that's what has to be said to justify voting for an atrocity such as this. Whatever Ak-Sar-Ben wants, Ak-Sar-Ben is going to get out of this Legislature. And, if they want to on Select File, I'm going to go on and tell them what I wish that they wouldn't pay attention to, they can get this Legislature to do with...do away with all taxes and they can get 50 percent off the top. That's what they can get out of this Legislature, no taxes at all no matter how big their handle is. They don't have anything to fear from this Legislature. What they think is that there might be some point at which the Legislature would draw the line and say, enough is enough, the degradation, the humiliation, the badgering, the being beaten down,...

SPEAKER BARRETT: One minute.

SENATOR CHAMBERS: ...the line is drawn and we won't step beyond it. Ak-Sar-Ben doesn't realize that there is no line for this Legislature. You can back this Legislature to that wall and flatten them thinner than the thickness of a sheet of typewriter paper. Ak-Sar-Ben just is not willing to do that much at this point and, for that, I guess I should thank them, I should applaud them for their mercy, their charity and their consideration. They will not take the last shred of dignity from the Legislature just yet. They might need it two or three years from now and then they will take it. But until that day comes, I guess I should thank them for being kind enough not to completely and totally demean and degrade the Legislature or make the Legislature demean and degrade itself. We are not doing a service for the public.

SPEAKER BARRETT: Senator Schmit, on the committee amendments.

SENATOR SCHMIT: Well, Senator Chambers, from time to time on this floor, not very often, Senator Chambers will cast a vote out of charity, from just the kindness of his heart. One of the things that Senator Chambers also speaks against, I was going to say rails but actually he lectures against, is hypocrisy. And so, Senator Chambers, in all honesty, it's very difficult for me to take a position that would be contrary to that which Senator Hall is proposing here today. Senator Rod Johnson; true agriculturalist that he is, suggested that if we had put an oat hopper on a video lottery machine that it could probably be called an agricultural benefit, and I'm going to work on that, Senator Rod. You know, one of the concerns we all have is whether or not what we do here today has any substantial and lasting benefit. Senator Richard Peterson, I think in a very excellent speech, pointed out that three years ago we were told that this ought to be sufficient to give us a chance to come back. Obviously, there have been many changes since that time. Senator Elroy Hefner pointed out the tremendous increase in the competition from other types of gambling. I would suggest, and I don't think anyone would disagree with me too much, that the principal competition which has damaged thoroughbred racing in the State of Nebraska is not necessarily the legal competition that we have but the illegal. Yes, it didn't hurt...it didn't help any to have lotteries legalized in Iowa, to have a dog track in Iowa, a dog and a horse track in Kansas City, to have a lottery in South Dakota, to have a lottery in Kansas. Those

items had their own impact, but any industry can do what needs to be done to meet that which is a known threat and that is the legalization of certain types of activity in adjoining states and in this state. What you cannot guard against is the illegal activity. We know there will be riverboat gambling on the Missouri and unless the thoroughbred industry does something to compete with that, there will be additional losses of revenue to riverboat gambling. And we can have editorials in the World-Herald. We can have all sorts of hypocritical statements made by politicians. It's not going to change the fact that the industry, as we know it, as we knew it many years ago, is not the same industry that's going to be viable 10 or 20 years ago. It was many years ago that I stood on this floor and advocated simulcasting. We had to literally beat people over the head and Henry Brandt, who was never considered to be the most aggressive horseman in the State of Nebraska, and I talked about simulcasting a long time before it could be spoken of in polite company. We finally got intrastate simulcast, we finally got interstate simulcast and I have suggested that there ought to be additional licenses granted by the Racing Commission for western Nebraska so they can enjoy simulcasting out there. And I'm sure that causes palpitations of the heart to Senator Chambers, but the facts are that if you only offer racing to the eastern third of the state, it's not going to be successful much longer. You're going to have to make additional changes. Now if you're against all gambling, if you want to wipe out all gambling in the State of Nebraska, that's fine with me...

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: ...I will support you. But if you license it, you ought to regulate it, you ought to tax it, you ought to try to make it some kind of an enterprise that contributes to the state. I know it's a little difficult to go back home and tell the folks, yes, we raised your sales tax by 25 percent, we raised your income tax by 17 percent, but lowered the tax on pickles, but lowered the tax on bingo. Oh, yeah, we did raise the tax, I believe, on horse racing from nothing to whatever it is. But it isn't really a very good position to be in as a politician, particularly when in a few years from now we may be facing substantial deficits and revenue reductions. What I'm telling you is this, I'm going to vote for the bill. I don't really like the bill. I think my former aide, Pat, is standing out there. He has got himself about a \$2,500 claimer loaded down with 132 pounds, trying to go a mile and 70 and I don't

know if he's going to make it or not.

SPEAKER BARRETT: Time.

SENATOR SCHMIT: He won't make it unless he's able to take a little of that weight off and shorten the distance a little bit in years to come. Time is up?

SPEAKER BARRETT: Time. Umm-hmm. Senator Johnson.

SENATOR R. JOHNSON: Mr. President and members, I rise as well to support the committee amendments and the bill. Senator Schmit has indicated there is parts of this bill I don't necessarily love but it is at least a bill that I think recognizes that some things have to be done to help the horse-racing industry of Nebraska and that seems to be the central focus of this bill is helping Ak-Sar-Ben, Fonner Park, State Fair Park and others survive these rather turbulent years. And I realize whenever you're the big boy on the block somebody is going to come hunting you down and usually in this Legislature the Ak-Sar-Ben is the target for a lot of jokes and a lot of ire by this Legislature over policy that we set on taxes as it relates to other areas of tax policy. But, you know, the question comes down to...and this is for Senator Chambers, I guess, are we going to kill the goose that laid the golden egg? And I think Ernie would say, well, that goose is laying either silver or bronze eggs instead of gold eggs but \$153 million was...a million dollars was spent last year or wagered in parimutuel wagering last year in this state. That's a lot of money, to me, and that's a lot for this state as that money filters down into the breeders and the horse race managers and I think it's got to do some good for the state. I don't necessarily like the industry. Ak-Sar-Ben hasn't necessarily done anything to improve my way of life but it at least has provided a way of life for a lot of people who are involved in the horse-racing industry and I think that we have to recognize, as Senator Schmit has indicated, that there is a lot of competition out there for the...for dollars that are...that are out there for gambling and we have to change with the times and I think that Ak-Sar-Ben and Fonner and other tracks are trying to do more to meet that competition. But they're still going to need some help and whether we like it or not, unless we want to kill the goose, I guess we're going to have to go ahead and, you know, bite the bullet and go ahead and provide these breaks again for the industry which I think are warranted as long as

the industry has some benefit to the state which I think for at least some of those families in my district that are involved in this industry it does help pay the bills.

SPEAKER BARRETT: Senator Schmit, followed by Senator Rogers.

SENATOR SCHMIT: I would just like to say a few more words. I think there's another fact that ought to be pointed out here and that is that when the racing industry was doing really well, a lot of people liked to be associated with it. And Senator Peterson touched upon another issue and that is that a lot of my breeders, small breeders were not able to get stalls at the various tracks because of competition from other breeders. It just may be that today we do not have the support from many of the persons who did support the...the industry and Ak-Sar-Ben and the other tracks in the years that you might have...you might have called it the "golden years". It would be easy for me to resent the fact that some of the people from Omaha who have been traditional supporters of Ak-Sar-Ben are showing less than enthusiastic support for their...for them now and are really showing some indifference perhaps to the cause. I don't know whether they are leaving the ship ahead of time, prematurely or what it is, but I would suggest that there ought to be and there should be a renewal of interest by the persons in Omaha who traditionally were active with Ak-Sar-Ben. There are a lot of memories of Ak-Sar-Ben and my memories go back to the days as a young lad when I used to show cattle there and it was quite an occasion to go to Ak-Sar-Ben. But today it's a different situation. It is always easy to jump on someone that's down and the industry is down today. But I like to look at the industry as being the thoroughbred industry, not necessarily racing industry. And there are those of us who think that the thoroughbred breed has been good for the state and good for all of us. I would hope that if the bill passes and becomes law that there would be a reassessment of the situation by the entire state that would be led by the principals out of Omaha who really have the most to win or lose if the industry is not allowed to continue. I would hope that they would take another...a different look, perhaps, at some of the activity that is going on; they would take a realistic look at the river boat that's proposed and will take place on the Missouri River, that they would reassess what happens to them if a casino is built in Council Bluffs, that they would reassess what would happen to them if there is a proliferation of other types of gambling activity, particularly keno, in this state.

And I would ask you once again, as a Legislature, to reassess whether or not the state ought to be demanding a larger share of those overall revenues before those revenues are lost to the cities. I am not a strong supporter of the cities being the primary beneficiaries of legalized gaming in this state. I think it ought to be an area that ought to be reserved more for the state. It's a statewide activity and the revenues that accrue ought to be statewide revenues. There was a time when the State of Nebraska was a recipient of a substantial amount of revenue from racing. Whether that ever returns again we do not know. Whether it should return is a question of speculation. But if this Legislature does not pass this bill, there is little doubt in my mind but that the industry will fail. Maybe that is what has to happen. But I do not think that this Legislature at this time wants to make the decision that says that we do not...

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: ...want to play a major role with the thoroughbred racing industry in this state and in the nation. There have been a number of persons prominent in racing that have come from Nebraska and we, in the Columbus area, Senator Robak and myself, I think have fond memories of the VanBerg family as well as many other breeders who do not achieve the fame of the VanBergs, but they've been good for Nebraska, they've been good for the state, been good for the nation. And I well recall, because I grew up with the VanBerg family, that Mrs. VanBerg who was of a faith that did not really condone gambling didn't really like the idea that her husband got into the racing business. And he said, well, I would like to bring to racing the same kind of principles that you brought to the church. And I think VanBerg did. And I think that it proves that people can be involved in this industry and be of good moral character.

SPEAKER BARRETT: Time.

SENATOR SCHMIT: Thank you.

SPEAKER BARRETT: Senator Rogers.

SENATOR ROGERS: Call the question.

SPEAKER BARRETT: Senator Rogers moves the previous question. Five hands? I do. Shall debate close? All in favor vote aye,

opposed nay. Please record.

CLERK: 26 ayes, 0 nays to cease debate, Mr. President.

SPEAKER BARRETT: Debate ceases. Senator Hall, would you like to close?

SENATOR HALL: Thank you, Mr. President, members, this last portion of the committee amendments we'll be adopting does deal with the racing provisions in the bill. It makes the changes that have been thoroughly debated here dealing with the take-out and the cap at \$80 million in terms of when the 4 percent tax kicks in and the other provision, the provision of the tax. The thing that we tend to forget is that the committee amendments do pose a tax on parimutuel wagering that we don't have right now. Granted it's a half percent tax for three years but then it...the time that that falls off on January 1, 1994 we go to a 2 percent tax that is paid to the state and a 1 percent credit to the tracks. I think that it is clearly a compromise that will allow the industry to have basically another period of time in which to either, in my mind, reorganize or withdraw because you're going to clearly see that industry across the country continue to evolve over the next three years. It has not shaken out, so to speak, in the three years that we allowed for in 1987 till this year. It hasn't happened. We have seen the track up in Minneapolis basically be bought out for roughly 13 cents on the dollar. The track that was worth \$100 million was bought for \$13 million less than a month ago. Those kinds of things are going to continue to happen in the industry as it evolves over the next three years. What we do with this last portion of the committee amendments is allow the industry in Nebraska to be able to compete but still pay tax and that is the important thing for me as sponsor of this bill is that the industry has to pay a tax as long as we're going to continue to give it the tools to compete and to function. To reorganize itself, part of that equation has to include a tax. We do that at a half percent for the next three years, 4 percent for a handle over \$80 million. Then at the point in time that that three years is up we pick up a 2 percent tax across the board and a 4 percent for a handle over \$80 million. We bring them back into line, continuing to pay at the level that traditionally they had paid for back in the hey days of parimutuel wagering. I think that the proposals that we offer in the committee amendments, the compromise that was reached within the industry itself, a compromise in the balance of the committee amendments that have

already been adopted allows for a good gambling tax bill in LB 1055. I would urge the adoption of the last portion of the amendments.

SPEAKER BARRETT: Thank you. The question is the adoption of the third part of the divided question involving Sections 1, 2 and 9 of the committee amendments. All in favor please vote aye, opposed nay. Record, please.

CLERK: 32 ayes, 2 nays, Mr. President, on adoption of the balance of the committee amendments.

SPEAKER BARRETT: The committee amendments are adopted. To the bill, as amended, Senator Chambers. Excuse me. Senator Hall was...did you open earlier?

SENATOR HALL: Mr. President, I would just move advancement of the bill.

SPEAKER BARRETT: Thank you. Thank you. Senator Chambers, discussion.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I'm looking at page 4 of the committee amendment in language which is not being amended. I'm going to read lines 8 through 13. "No minor shall be permitted to make any parimutuel wager and there should be no wagering except under the parimutuel method outlined in this section. Any person, association, or corporation who knowingly permits a minor to make a parimutuel wager shall be guilty of a Class IV misdemeanor." Do I have an obligation, if I see a minor about to make a parimutuel wager, to stop that minor? Am I permitting the minor to do it if I don't stop the minor? Any person? So there I am and there's old Senator Kristensen just walking down the street as innocent as two newborn babes and here is some youngster about to make a wager and we don't stop the youngster. Class IV felony, or is it a misdemeanor, did I say, did the bill say? Class IV misdemeanor. Two criminals converted from honest persons to criminals. That doesn't make sense. So what I'm going to do is prepare an amendment to strike this section and I think that that would be a reasonable thing to do because it should not be my responsibility to determine what any minor is going to do. It would be different if they had phrased it to say that these various...you know, the person, association or whatsoever should not assist the person in making the wager or

accept a wager. So I have an amendment that I'm going to offer but I would like to ask Senator Hall a question first.

SPEAKER BARRETT: Senator Hall.

SENATOR HALL: Yes.

SENATOR CHAMBERS: Senator Hall, before I even attempt that at this stage of consideration, and I don't intend to offer it here, what do you think about that?

SENATOR HALL: Senator Chambers, I don't have any problem with your amendment if it retains the intent of those...of that section, as long as you don't strike it and then not replace it with something. I would be more than happy to work with you on some language that basically retains the intent of basically making it some form of penalty for anyone who assists or knowingly assists a minor in placing a parimutuel wager. I wouldn't have any problem with that sort of an amendment as long as you don't...it's not just totally a stripping of any reference to that from the language.

SENATOR CHAMBERS: Sure, and my idea is that they would have to do something to facilitate it instead of maybe being completely passive and not having any participation in the placing of that wager.

SENATOR HALL: And I don't disagree with that. I think the operative language here is knowingly which goes to what your argument is all about and I would have no problem structuring some language for Select File that would address that concern.

SENATOR CHAMBERS: Okay, and now since we're getting along so well, what would you think if I would offer an amendment on Select that would strip out everything related to Ak-Sar-Ben, out of this amendment?

SENATOR HALL: I think we probably wouldn't get along so well.

SENATOR CHAMBERS: Just like I thought, see, how to be friends with a guy.

SENATOR HALL: But I will listen to any argument.

SENATOR CHAMBERS: Okay, and that's all that I have to offer at

this point.

SPEAKER BARRETT: Senator Warner, discussion on the advancement of the bill, followed by Senator Langford.

SENATOR WARNER: Mr. President and members of the Legislature, I haven't said anything all day but I just thought maybe I ought to at least make some comment because I don't intend to vote for the bill as it currently is amended. But one thing that's occurred to me and perhaps one of the supporters can respond or it doesn't really make any difference if you don't, but it occurs to me that legislation tends to tie together and I suppose the next time we will hear about 1055 I would think would be...an appropriate time would be when we get to the override on LB 1059. As I recall, that bill had a 4 percent limit on other governmental subdivisions. Maybe it's 5 if they have enough votes. But I was just doing a little calculation here based on notes here, instead of that 4 percent increase, like for Omaha, it seems to get...if they lose 240,000, that drops down to 3.4. Lincoln is not so bad off, they only lose .25 of 1 percent of their 4 percent so they would still have a little bit. But I would suspect these little minor amounts as we begin to put lids on local government expenditures begin to become an accumulative thing which inevitably is going to affect other legislation. And since I'm still trying to make up my mind on another bill and whether or not I will vote to override and if I decide to, I hate to see it injured by a provision that will make it more difficult to override by virtue of the fact that taking this revenue away and limiting cities the ability to replace that lost revenue it seems to be a double problem that we shouldn't have. And that's my reasons for voting no when the bill advances.

SPEAKER BARRETT: Senator Langford.

SENATOR LANGFORD: Mr. President, I call the question.

SPEAKER BARRETT: Thank you. That won't be necessary. We have no other lights. Senator Hall, please.

SENATOR HALL: Thank you, Mr. President, and members, just in response to Senator Warner's concerns, I, you know, don't see a relationship between 1059 and 1055 but I do understand the issue of the 4 percent cap. You're dealing with one that is a \$200 million bill and the other is, I guess, a \$240,000 loss to

the City of Omaha. How do they pick that up? Well, I can tell you within the last year they picked it up just by having somebody else collect the money out of their parking meters. They were losing approximately half a million dollars a year to some of the folks who happened to work for the city. They probably picked at least that much up in that area, but the question, I guess, is in this case and I think his comments were targeted specifically at the bingo tax issue, at what level do you want taxes to be? I'm going to school and taking a class and one of the first cases they had me look at in this class, Constitutional Law, was a case called McCullough v. Maryland, and it dealt with a...the federal government established a national bank and the State of Maryland imposed a tax on that bank, saying that they had the authority to do that, as an autonomous entity of the state could do that and it went all the way to the Supreme Court. And Chief Justice Marshall made a ruling and the ruling dealt with a number of different things but one of the things he said in that case, in that opinion, was that the power to tax was a power to destroy and he used that in his argument, in his opinion, to basically knock down or rule unconstitutional the state law of Maryland imposing the tax on the national bank that had been established. Really, there's good arguments or there can be a correlation between the way we have taxed gambling in this state. And clearly in the case of the pickle cards, the power to tax has been a power to destroy and that was the intent behind it. In the area of bingo, I would argue the same thing. As many of you know, from listening to legislation that we have had in here, bingo is taxed excessively and it even causes a problem for some of those games because they have had a problem in basically making the bingo pay for itself which is a requirement under statute. It was part of the revisions that we put in in 1987. In the area of parimutuel wagering, we have addressed the issue of taxing time and time again, saying that we want it to be something that is fair and equitable but does not impact the industry in any way, shape or form that would be harmful. We want the industry to continue to thrive and survive. I would argue that in the area of bingo, pickles and parimutuel wagering we want that to happen across the board. Through the adoption or the advancement of LB 1055 with the committee amendments as it currently reads, we have done that. We have basically for the first time, I think, treated gambling fairly uniformly in this state. At least, we have looked at them together instead of separately and as separate entities, making each of them stand alone. I don't know that that is so bad to tie these things together and at

March 27, 1990

LB 1055, 1062
LR 239, 402

least say that we're going to address the issue...

SPEAKER BARRETT: One minute.

SENATOR HALL: ...of gambling somewhat uniformly. They shouldn't always be tied together probably. I would argue that three years from now when the racing industry is back here you're going to see a totally different racing industry and it's going to take on a new shape and a new form in three short years from now. But what we will allow it to do through the passage of this bill is to come back and make a case. They may come back and make a case to continue the way we have allowed it to operate or it may not be there to operate at all. I don't think there is going to be much in between. But, in any case, we have taken the first step to allow all these various operations of gambling to be addressed at once and I think that's a good precedent to set. I think LB 1055 as currently been amended makes good sense and sends a message to all those folks out there that we feel you do good work but we're going to address you in a uniform basis at least as much as is possible. I would urge the advancement of the bill.

SPEAKER BARRETT: Thank you. The question is the advancement of LB 1055 to E & R Initial. All in favor vote aye, opposed nay. Have you all voted? Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman, if we're going to weight these votes, shouldn't the vote of two senior members be worth about 30 of just ordinary senators?

SPEAKER BARRETT: Please record.

CLERK: 28 ayes, 4 nays, Mr. President, on the advancement of LB 1055.

SPEAKER BARRETT: LB 1055 is advanced. Matters for the record.

CLERK: Mr. President, new resolution, LR 402 by Senator Dierks. (Read brief description of LR 402. See page 1646 of the Legislative Journal.)

Amendments to be printed by Senator Smith to LB 1055, Senator McFarland to LR 239, and Senator Hefner to LB 1062. (See pages 1646-48 of the Legislative Journal.)

March 29, 1990

LB 220, 976, 1055, 1153, 1153A, 1221, 1246A
1247

SPEAKER BARRETT: Thank you. The question is the adoption of the Chambers amendment to the amendment. Those in favor vote aye, opposed nay. Have you all voted? Have you all voted? Senator Chambers. Roll call vote has been requested. Members, please return to your seats. The question is the adoption of the Chambers amendment to the Johnson amendment. Mr. Clerk. Excuse me, members, please return to your seats. (Gavel.) The call is not raised. Please check in. All members please check in. Senator Smith, please, record your presence. Senator Beyer. Senators Goodrich, Moore, and Scofield, the house is under call. Senators Moore, Goodrich, and Scofield, the house is under call. The question, again, the adoption of the Chambers amendment to the Johnson amendment to LB 976. Mr. Clerk, call the roll.

CLERK: (Roll call vote taken. See pages 1734-35 of the Legislative Journal.) 11 ayes, 18 nays, Mr. President.

SPEAKER BARRETT: Motion fails. The call is raised. Next item.

CLERK: Mr. President, Senator Landis would move to amend.

SPEAKER BARRETT: Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I move to adjourn until tomorrow morning at nine o'clock.

SPEAKER BARRETT: Would you care to amend that to eight o'clock, Senator Landis?

SENATOR LANDIS: I certainly would.

SPEAKER BARRETT: Thank you. Any items to read in, Mr. Clerk?

CLERK: I do, Mr. President. Your Committee on Enrollment and Review respectfully reports they have carefully examined engrossed LB 220 and find the same correctly engrossed.

Mr. President, I have a new bill, LB 1247 offered by the LR 232 Special Investigative Committee. (Read for the first time by title. See pages 1735 of the Legislative Journal.)

Mr. President, LB 1153 is reported to Select File, LB 1153A, LB 1055, LB 1221, and LB 1246A, all those on Select File.

March 30, 1990

LB 688, 960, 980A, 1055

SPEAKER BARRETT: Time.

SENATOR CHAMBERS: Mr. Speaker, while I'm out here speaking in behalf of the women, you have women up there who have to tell you to shut me up, but I understand. (laugh)

SPEAKER BARRETT: Thank you. Senator Landis.

SENATOR LANDIS: I'd move to adjourn until nine o'clock on Monday morning.

SPEAKER BARRETT: We have a motion to adjourn until nine o'clock Monday morning. Mr. Clerk, have you anything for the record?

CLERK: Mr. President, I do, very quickly, amendments to be printed to LB 980A by Senator Schmit; Senator Hall to LB 1055; Senator Lamb to LB 960, Senator Lamb to 960. That's all that I have, Mr. President. (See pages 1762-64 of the Legislative Journal.)

SPEAKER BARRETT: Thank you. The question is, shall the Legislature adjourn until nine o'clock, Monday morning. All in favor vote aye, opposed nay. Have you all voted?

SENATOR LANDIS: Mr. Speaker, I'd like a roll call vote.

SPEAKER BARRETT: Thank you. A roll call vote has been requested. Members, please return to your seats for a roll call vote. Senator Landis, would you desire to have people check in or not? Thank you. Members, please record your presence. Any members outside the Legislative Chamber, please return and record your presence. Senator Langford, please check in. Senator Beck, would you please check in. Senators Abboud and Baack. Senators Lamb, Lindsay, Lynch. Senators Nelson and Rogers, the house is under call. Senators Abboud, Goodrich, Haberman, Labedz, the house is under call. Members, return to your seats for a roll call vote. The Clerk will call the roll on the motion to adjourn until nine o'clock Monday morning. Mr. Clerk.

CLERK: (Read roll call vote. See pages 1764-65 of the Legislative Journal.) 10 ayes, 27 nays, Mr. President.

SPEAKER BARRETT: The motion fails, and we are back to a discussion of returning the bill to Select File. Speaking

April 3, 1990

LB 1055, 1153A

SENATOR HEFNER: The next bill...

CLERK: Mr. President.

SENATOR HEFNER: ..is LB 1153A.

CLERK: LB 1153A has E & R amendments pending, Mr. President.

SENATOR HEFNER: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move the adoption of the E & R amendments to LB 1153A. (See E & R amendment, AM7202 as found on page 1738 of the Legislative Journal.)

SENATOR HEFNER: All those in favor say aye. The amendments are adopted.

CLERK: Mr. President, I now... I have nothing further pending on the bill, Senator.

SENATOR HEFNER: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 1153A, as amended, be advanced to E & R for engrossment.

SENATOR HEFNER: You have heard the motion. All in favor say aye. The bill is advanced. The next bill on the agenda is LB 1055.

CLERK: Mr. President, LB 1055, Senator, I have E & R amendments pending, first of all. (See E & R amendment AM7199 as found on page 1738 of the Legislative Journal.)

SENATOR HEFNER: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move the adoption of the E & R amendments to LB 1055.

SENATOR HEFNER: You have heard the motion. All in favor say aye. Contrary, the same. Motion is carried.

CLERK: Mr. President, Senator Smith, you had an amendment to this bill, (See Smith amendment AM3195 as found on page 1647 of the Legislative Journal.) Senator. I have a note that you'd

like to withdraw.

SENATOR HEFNER: The motion is withdrawn.

CLERK: Mr. President, the next amendment I have to the bill, Senator Hall, Senator, is yours. (See Hall amendment AM3236 as found on page 1763 of the Legislative Journal.) I have a note on this, Senator, you want to withdraw this amendment as well.

SENATOR HALL: I'd...

CLERK: This is AM3236, Senator.

SENATOR HALL: Well, I'd like to substitute AM3318, if that was...

CLERK: You're next anyway so...

SENATOR HALL: Okay. That's fine.

SENATOR HEFNER: The amendment is withdrawn.

CLERK: Mr. President, Senator Hall would move to amend. I now have your AM3318, Senator, in front of me. (See Hall amendment AM3318 as found on pages 1856-57 of the Legislative Journal.)

SENATOR HALL: Thank you, Mr. President and members.

SENATOR HEFNER: Senator Hall.

SENATOR HALL: Thank you, Mr. President and members. As you have passed out in front of you, AM3318 deals with three separate and distinct issues that you can basically take according to the way they're listed in the provisions on the amendment. There is a first one that was a clarification that was requested on the part of the Gaming Division of the Department of Revenue dealing with definition of what a corporation is with regard to lottery operators. We put Nebraska Business Corporation Act was the law... was the language that was changed there on lines 11 and 12. The second one deals with a clarification. When we made the change in the bill with regard to the take out, the two small tracks in the state currently were taking out at 18 percent for win, place, show. The At-O-Kad and Columbus tracks were doing that. They wanted it spelled out specifically in this bill and we thought

we did. They felt better that we put this amendment in that said that that 3 percent additional that we offered in the bill to the other tracks and provided for a breakout of 1 percent to the breeders, 1 percent to the horseman, 1 percent to the tracks, would not any way affect what they have traditionally done with their 3 percent, which is all that went to the small tracks. They want to continue to do that. There was no change in LB 1055 to that effect. This language clarifies that for their benefit. And the third provision is on line 19 and 20, which is the issue that Senator Chambers raised dealing with aiding and abetting a minor who is making... placing a bet. The language, if you remember we debated it on General File, dealt with the issue of, and Senator Chambers correctly raised the point, that if someone were standing and watching a minor, had no association with them but saw them place a bet that the way the bill read they basically could be required to I guess raise the issue of that minor breaking the law and could be... or could be associated with that minor if they happened to witness it; even though they had no association, could be guilty of the penalty provision that it provided for. The language that I offer by striking "permit" and inserting "aids and abets" in making the... the placing the bet would clarify that language I think to his satisfaction with regard to a individual who would be helping a minor to place a bet. So there would have to be some active participation so the bystander could not be hit with the penalty provision. With that, Mr. President, I would move for the adoption of the amendment.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: Thank you. Discussion on the Hall amendment. Senator Schmit.

SENATOR SCHMIT: Question of Senator Hall. Senator, on lines 11 and 12 we strike the words "laws of this state", insert "Nebraska Business Corporation Act."

SENATOR HALL: Yes.

SENATOR SCHMIT: Can you explain what that is? I'm sorry I missed it.

SENATOR HALL: Please? I'm sorry, Senator Schmit, I didn't hear you.

SENATOR SCHMIT: Yes. On lines 11 and 12 we strike the words "laws of this state" and insert the words "Nebraska Business Corporation Act." What is the purpose and intent of that?

SENATOR HALL: Senator Schmit, the purpose is clear and it was language that was recommended by the Gaming Division of the Department of Revenue with regard to individuals who can operate a lottery. It would require then that they be a for-profit operation. It would not change or affect any group or any individual who is currently operating a lottery or anything like that, but what it would not... what it would prevent, basically, is any not-for-profit operation to run a lottery to, in essence, circumvent the Nebraska Lottery Act. And what that means is that there has been talk of proposals, for example, not-for-profit operations running a lottery for various cities, basically if they use, for example, their bingo license, they could, in essence, there is one school of thought that says that they could circumvent our current law without this change. What this change does is then basically lock it in so that it would have to be a for-profit corporation as opposed to a not-for-profit operation which currently had a bingo license.

SENATOR SCHMIT: Who is the current beneficiary of this language change?

SENATOR HALL: No one, to my knowledge in terms of a, you know, beneficiary. The only thing that it does, and we have dealt with this, and I think Senator Smith will speak to it as well, in the General Affairs Committee, and all that it does is prevent I think the abuse or the circumvention of the Lottery Act as it was proposed. It is nothing more than I think a closing of a loophole that could lead to some potential finagling with the Lottery Act as it currently exists.

SENATOR SCHMIT: What is wrong with a not-for-profit entity operating a lottery?

SENATOR HALL: Well, the difference, my understanding from talking to the Gaming Division, Senator Schmit, is that the difference is, is that they currently would be licensed to, say for example, run a bingo. All right? But because they... the language that said "under the laws of the State of Nebraska," that incorporates not-for-profits, whereas when we change the language to Nebraska Business Corporation Act it makes them a for-profit entity that would then have to go apply specifically

for the purposes of running a lottery, whereas a bingo license that a not-for-profit could have in place would qualify under the definition of "lottery." So, in essence, they can have a bingo license and then begin running a keno game.

SENATOR SCHMIT: Is there a chance, Senator, that under this situation someone who... would you have to apply to the Department of Revenue for permission to operate, or to whom do you apply now, or will we ever have, as was proposed once, a Gaming Commission in this state?

SENATOR HALL: Senator Schmit, interesting you should ask that. The very amendment that Senator Smith withdrew was that amendment that dealt with a Gaming Commission, and I know that the... she and the committee have introduced a resolution to that effect over the interim, but that was the specific amendment that she withdrew to the bill prior to this amendment.

SENATOR SCHMIT: Thank you, Senator Hall. I have a hunch that there may be a little bit more in this amendment than what we can see on the surface of it. Senator Hall understands it very well.

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: I don't know that anyone else does, but that wouldn't be the first time that that was true on this floor. And I would just like to say that I support the bill, support what they are trying to do, but I want to reemphasize that unless the racing industry embarks upon some new ideas and attempts to meet competition that, no matter what we do on the floor of this body, racing will not continue to exist in this state. I have suggested that the Gaming... the Racing Commission has it within their prerogative at this time the ability to expand the number of simulcast outlets by simply licensing three, four, five or six more tracks in the state. They only need to run one day of live racing. They could provide simulcasting opportunity for Scottsbluff, Chadron, Ogallala, North Platte, Valentine, a number of other areas in the state which could substantially increase the handle.

SPEAKER BARRETT: Time.

SENATOR SCHMIT: I would hope that the Racing Commission will not just sit here like, as if a pilot at the controls of an

airplane that's in a spin and wait till they crash and come back again, but that they will try to be innovative and try to help resolve their own problems.

SPEAKER BARRETT: Thank you. Senator Smith; followed by Senator Robak.

SENATOR SMITH: Thank you, Mr. Speaker. This is an issue, one of the many, many issues that we dealt with when we were looking at all of the laws surrounding pickle, bingo, and so on, operations in the session this year in our committee, and one of the issues that we did deal with that was a part... would have been a part of one of the bills that we were offering on committee as a priority committee bill that would have been amended into another bill that was in part of a big package of 180 pages. It's something that, in my understanding in talking with Senator Hall, that now the Department of Revenue, the Gaming Commission, have asked him to bring and amend into the bill, but it was a minor issue that was discussed regarding corporations and a requirement that we have for them to form that... I guess it was the proprietorship of that business to meet the exiting... the requirements that we have on other... all other businesses. It's kind of hard to explain and I wish I had my file here. I have a sick committee research person and someone else getting my file and if we need further explanation I hope to get that material, but it's a pretty simple thing that we're trying to do here in my understanding. Thank you.

SPEAKER BARRETT: Senator Robak.

SENATOR ROBAK: Thank you, Mr. Speaker. Senator Hall, could you answer a question for me, please?

SENATOR HALL: Sure.

SPEAKER BARRETT: Senator Hall.

SENATOR ROBAK: In your Section 1 where you have, the lottery operator shall be a resident of Nebraska or if a partnership or a corporation, so on, you've struck "the laws of this state" and you inserted "Nebraska Business Corporation Act." What is the Nebraska Business Corporation Act?

SENATOR HALL: The Nebraska.... Thank you, Mr. President. Senator Robak, the Nebraska Business Corporation Act refers to

corporations that are incorporated under this... the laws of Nebraska on a for-profit basis, and the reason that we offer this amendment on behalf of the Gaming Division is that, the way the law currently is written, a not-for-profit corporation, which would not be incorporated under the Nebraska Business Corporation Act, could have a bingo license which qualifies as a lottery. They could then, because they have that license, contract with a local community to run a keno game without ever having to go through the process of being approved for a keno license. And all we do is reference statute with regard to Nebraska Business Corporation Act so that you tighten that down so that anybody who wants to run a keno game has to be a for-profit corporation under the Nebraska Business Corporation Act and they have to apply straight forward for that purpose. It's to try to close a loophole with regard to "back dooring" the...

SENATOR ROBAK: Thank you, sir. What would the loophole be?

SENATOR HALL: The loophole would be is that they could be a not-for-profit corporation and apply for a bingo license and then go out and try to garner business as a keno operator...

SENATOR ROBAK: Then could you...

SENATOR HALL: ..for a municipality.

SENATOR ROBAK: Thank you. Could you answer it... could you ask... answer another question for me?

SENATOR HALL: Sure.

SENATOR ROBAK: How would this affect the lotteries that are going on in my small districts now?

SENATOR HALL: In no way at all, no shape or... way, shape or form, is there any... and we made sure of this. It doesn't affect anybody who's currently operating a municipal lottery. They're all incorporated under the Nebraska Business Corporation Act.

SENATOR ROBAK: They don't have to go reapply for a license or go through all the procedures...

SENATOR HALL: They do not.

SENATOR ROBAK: ..that they have once gone through?

SENATOR HALL: Absolutely not. It's just to prevent someone in the future from basically using the statutes the way they're drafted to their advantage and circumvent the law, the intent of the law anyway.

SENATOR ROBAK: Well, thank you.

SPEAKER BARRETT: Any other discussion on the amendment? Senator Hall, would you care to close?

SENATOR HALL: Mr. President, I would. Again, I'll touch on the provision with regard to clarifying the issue for the small tracks, the Senator Chambers' issue with regards to aiding and abetting, and then the other provision that deals with the bingo aspect of the bill that is the reason I brought it, and I brought it on behalf of the Gaming Division. It is not, in any way, shape or form, a tricky amendment. It's real straightforward. All we do is say we change from the laws of the state to the Nebraska Bingo... or, excuse me, the Nebraska Business Corporation Act. It affects no one right now. The problem is, is that the way the law is drafted, the way.... Mr. President, could I get a hammer? Mr. President, would you listen to me?

SPEAKER BARRETT: Senator Hall.

SENATOR HALL: Thank you. Could I, just so I could explain this in closing, I'd appreciate it.

SPEAKER BARRETT: (Gavel.)

SENATOR HALL: Because...

SPEAKER BARRETT: (Gavel.)

SENATOR HALL: Thank you. The problem here is that Roger Hirsch said, look, this is an issue and, if we could amend it to your bill, we'd appreciate it. It is in no way going to impact the local option lotteries. They're all incorporated under the Nebraska Business Corporation Act. What it does is keep somebody who is currently licensed as a bingo operator, a not-for-profit, from getting into the keno business without

having to go back to the Department of Revenue and saying we want to run a keno game. That isn't what they came in for. They came in for a bingo license. I think it's a fair amendment. If it causes problems to the bill, I'll strike it, but it is very straightforward and if you'd like to talk to somebody behind the glass from Department of Revenue, I'm sure they're out there. It in no way impacts the local option lotteries that are currently in place. It's to prevent any shenanigans from going on in the future. I would urge the adoption of the amendment, Mr. President.

SPEAKER BARRETT: Thank you, sir. The question is the adoption of the Hall amendment to LB 1055. Those in favor vote aye, opposed nay. Please record.

CLERK: 29 ayes, 0 nays, Mr. President, on adoption of Senator Hall's amendment to the bill.

SPEAKER BARRETT: The amendment is adopted.

CLERK: Mr. President, Senator Conway would move to amend the bill.

SPEAKER BARRETT: Senator Conway, for purposes of an amendment. (See Conway amendment AM3344 as found on pages 1857-60 of the Legislative Journal.)

SENATOR CONWAY: Thank you, Mr. Speaker and members. On the desk is an amendment that will have to be amended by virtue of the fact that we just adopted a new Section 6 and that was the number by which I was going to adopt, so that will be changed through E & R by virtue of the fact that I also called mine "6." Senator Hall has just adopted Section 6. What the amendment basically does is that in previous years we, through our desire to restrict certain activities by some of our subdivisions in terms of what their lottery and various gambling activities would be, we basically put in a sunset clause for some of the cities relative they had the particular activities that they were engaged in. What this amendment simply says is that with the three authorized schemes that are established in law that any given city may conduct only one of each of the three schemes. We do have some cities that, in the past, have had more than one scheme. They have had more than just pickle, they've had more than just keno, and in 19... January, 1991, those would sunset. What I'm simply asking is that without any

change or proliferation that it would be a continuation of what they're doing and that being to allow a city to conduct both keno and pickle cards if, in fact, those are already in force in their communities. It's simply adjusted accordingly.

SPEAKER BARRETT: Discussion on the amendment offered by Senator Conway. Senator Hall; followed by Senator Robak.

SENATOR HALL: Thank you, Mr. President and members. I am just looking at the amendment right now and I'll... I got it from the Clerk's desk and, to be quite honest with you, I know... I did talk to Senator Conway about the issue and it... the way it reads it says, no county, city or village shall operate more than one of each of the three schemes or types of lotteries as defined in subdivision (1)(c) of Section 96-607 (sic). And, to be quite honest with you, I'm not aware of what detrimental impact it would have, if any, but I'll let you make up your own mind on the amendment. I don't know whether I'm going to support it or not yet.

SPEAKER BARRETT: Senator Hall, have you... are you finished or would you like to continue?

SENATOR HALL: No, Mr. President, I'm still looking at the amendment. If there's other speakers, I'd say go on.

SPEAKER BARRETT: Thank you. We'll come back to you. Senator Robak.

SENATOR ROBAK: Thank you, Mr. Speaker. Could we have a copy of the amendment? We don't know what it is. Is there any... Mister... Senator Conway, do you know what your amendment is? Could you tell us what your amendment is? Could we have the amendment?

SPEAKER BARRETT: Senator Conway, would you respond to Senator Robak's question about the location of the amendment? Is it...

SENATOR ROBAK: Could we see the amendment?

SPEAKER BARRETT: ..available?

SENATOR CONWAY: It's in my hand right now.

SENATOR ROBAK: Well, I don't... I'd like one in my hand. Must

not be important.

SPEAKER BARRETT: Senator Abboud, did you want to discuss the amendment? Thank you. Senator Smith on the amendment.

SENATOR SMITH: Thank you, Mr. Speaker. I would like to ask Senator Conway also. I agree with Senator Robak. I'd like to have one in my hot hand, too, Senator Conway. What... would you please again explain exactly what your amendment does?

SENATOR CONWAY: Exactly what the amendment does, and if I knew you had a hot hand I would have made sure you would have had one, but what the amendment actually does is, under current law, cities have been able to conduct a multitude of activities and last year we passed legislation that said in January 1 of 1991 there shall be no more than one scheme or activity conducted. What this amendment basically does is allow those cities, if they so desire, to conduct only one of any one of the activities that are there but, in essence, they could conduct a keno game and a pickle game. They can't conduct two kenos. They can't conduct two pickles. They can only do one of each, but they are authorized to do one of whatever we do authorize to be (inaudible).

SENATOR SMITH: Okay, what you're saying, Senator Conway, then, am I correct, we pass a law which limits cities to one kind of gambling operation. Now what you're saying is that they can choose what kind they want?

SENATOR CONWAY: They can choose what kind they want and they can enter into only one of any, each of the three that they so choose, which basically is very similar to what cities (inaudible).

SENATOR SMITH: There are three choices that they may have.

SENATOR CONWAY: Correct.

SENATOR SMITH: In other words, outside of what we said in the law last year they could have, you're saying now there are three types that are possible they could have and they're going to choose one of the three, whichever one they please to choose, and that's the one they can run?

SENATOR CONWAY: No. In existing law it says that they can

choose one of any of the three schemes. Okay?

SENATOR SMITH: Okay, and what are you saying now, again?

SENATOR CONWAY: And I should say an existing law also provides them with a sunset provision. They can conduct whatever they have been conducting and are grandfathered in until January 1 of 1991.

SENATOR SMITH: Uh-huh.

SENATOR CONWAY: What my amendment simply says is that, rather than restricting those communities to choosing only one game, and that was what we were trying to do was eliminate the proliferation of the games, the multi kenos, the multi whatever. It simply says that they can only conduct one of those schemes, of those three authorized schemes, but they can conduct one activity in each of the three categories. So, in other words, a city could have pickle cards for their fire department and could operate a keno game as part of the city support so they could choose. They could have, actually, two situations going, but only one of any given authorized scheme.

SENATOR SMITH: Senator Conway, there's no way that I would stand here and say that I'm going to support an amendment that I haven't even seen. There's more than one page in that amendment. Just by the fact that I went over and looked at it there with you for a second, I know that it has two or three pages in it. I guess I'm just going to have to go on record opposing the amendment. I don't see any reason that any of us at this late stage of the game would be willing just to take... to attach an amendment that we haven't even seen or had time to digest at this point. I will be opposed to it, I guess. Thank you.

SPEAKER BARRETT: Thank you, Senator Smith. Senator Hall, please; followed by Senator Robak.

SENATOR HALL: Thank you, Mr. President and members. I rise to oppose Senator Conway's amendment. I appreciate his good faith effort but it clearly is a substantive issue here that we're dealing with. Here's what we did last year. We took and we said that a city or a county could run a lottery or a keno game, but they could only run one operation. What Senator Conway's amendment... and there currently are three different types:

keno, lottery, pickles, whatever. What Senator Conway's amendment would do would expand that again from the reduced one operation that we sunset, and they still have at least another year, they've got through '91 to do this, to three different types, one of each which they could operate. So, in other words, we've limited them to one. We've sunsetted everybody who's out there doing more than one until the end of '91 and... excuse me, the beginning of '91, then what we do here with the Conway amendment is open it back up so that they could operate as many as three different types of lotteries. I rise to oppose the motion, because I think it's a substantive change to the law. I appreciate his efforts in the amendment. It's interesting. It's the way I work but not on my own bills. So I would just rise to oppose it. It is a substantive change. The issue... they sunset the beginning of '91. Granted, it's possible that they could come back next year and address the issue before the General Affairs Committee and let Senator Smith and committee deal with it, but it is a big change. I'm going to oppose it at this time.

SPEAKER BARRETT: Thank you. Senator Robak.

SENATOR ROBAK: Thank you, Mr. Speaker. Since I don't have the amendment anymore, Senator Conway took it away from me to get some reprints, some copies, made, but... and we didn't have time to study it or look at it or know what it would do to our individual lotteries that we have back home. I oppose it also. Thank you.

SPEAKER BARRETT: Thank you. Senator Hartnett, followed by Senator Conway.

SENATOR HARTNETT: Mr. Speaker, members of the body, I think that... I think what we talked about I think a year ago we allowed, because I think in my fair city we had two operations going on and we allowed them to sunset to... down the road and so forth, and I think one of the things I think we want to do this summer, I think under the leadership of Senator Smith, is look at the whole issue of gambling. And I think, like Senator Hall said, we can maybe wait another year for Senator Conway's amendment and then look at it and maybe we would want to grandfather or grandmother some of these cities that have it right now, to continue to do it and shut it off at that time. So...

SPEAKER BARRETT: Senator Conway.

SENATOR CONWAY: Let me, if I can, diffuse some of the confusion. Very simply, what this does is we have, under previous language, tried to establish the three authorized forms that a municipality may engage in relative to gambling. Those are simply to authorize the holding of a pickle situation, as we're familiar with, it allows keno that we're familiar with, and it allows raffles. What we did last year, by virtue of previous legislation, was tried to limit the amount of proliferation of those activities in any given area, and what we said was that only one scheme, and that's the language used in the law, or type, may be conducted and may continue in operation till January 1 of 1991. The reason I'm here now is because this does sunset before this legislative body does reconvene and so we're up against that particular clock. Again, I suggested offering the legislation on General File, but as the session has gone there's been needs for some people to move the legislation forward and try to get the base established first and that's why I came in and rather lately. And with the Senator Hall suspending the Speaker's agenda and all of the other activities that have gone on today, it led to this coming up before we really had a chance to have that in front of you. What it basically says is that of those three schemes that are authorized that any given city may engage in only one of those activities within each category. In other words, a city, and in my particular case and I'll tell you what my situation is, in the City of South Sioux City, the city has a keno game going on. They don't want more keno games. They want that one keno game. The City of South Sioux City's Volunteer Fire Department also has a pickle card program going on, and they've had that going on for many, many years. Both of them have been very successful programs. Both of them supporting both of those entities. As of January 1, 1991, the firemen are going to have to give up their pickle cards, or the city's going to have to give up their keno by virtue of the language we put into the law last year. What I'm suggesting we simply do is say that no city can conduct more than one activity in any one of those categories. So, in other words, the city can have their keno, the firemen can have their pickle, and the city I suppose as well could have... hold one raffle a year as well under that third provision that's there. So that's what I offer the body. I understand the confusion. I can say trust me, and look for the support that way, but with that I offer the amendment.

SPEAKER BARRETT: Thank you. Senator Nelson; followed by Senators Smith and Withem.

SENATOR NELSON: Senator Conway, would you answer a question for me?

SENATOR CONWAY: Surely, Senator.

SENATOR NELSON: In my simple layman's language, to me then this allows three types of gambling in one town.

SENATOR CONWAY: Correct.

SENATOR NELSON: Do... did you name it correctly, a "scheme"?

SENATOR CONWAY: The (inaudible).

SENATOR NELSON: Ah, yes.

SENATOR CONWAY: No, no, listen to me. If you want to read the existing legislation, that's how we describe these, as schemes.

SENATOR NELSON: I know that, Senator Conway. I guess this is one of the "trust me's" that I simply am sorry to say, and my dear friend, Senator Conway, but I certainly can... I would like to know more about it and I am absolutely positive we don't need any more gambling than what we already have or another way to open up another door. So I guess I really have to oppose, Senator Conway, and maybe I don't understand but for the time being my button will be red.

SPEAKER BARRETT: Thank you. Senator Smith.

SENATOR SMITH: Thank you, Mr. Speaker.

SPEAKER BARRETT: (Gavel.)

SENATOR SMITH: I have my trusty research person standing right here beside me, Conway. Now you've had it. (Laugh) He came from his sickbed from watching us-- Don. He's here. No more tricks, Conway. Okay, now I know that this body has been great in the last couple of days of moving lots of stuff mighty fast around here, but I don't think your amendment ought to move that fast, Jerry. First of all, I have... since I have not seen the amendment, I'm asking you a question and that is, does this

apply only to those that have been grandfathered in?

SENATOR CONWAY: No. This would apply to any city, county or village who wishes to conduct.

SENATOR SMITH: See, what are you... I'm trying to understand what your concern is because if they're already doing pickles, for instance at a fire station, there's nothing that would preclude them from doing that.

SENATOR CONWAY: Correct.

SENATOR SMITH: So what are you trying to do, is what I'm trying to understand?

SENATOR CONWAY: What I'm trying to do is that the... from the city level,...

SENATOR SMITH: Uh-huh.

SENATOR CONWAY: ..that they (inaudible).

SENATOR SMITH: Oh, the city. Only the...

SENATOR CONWAY: They are also...

SENATOR SMITH: ..you're talking about only the cities.

SENATOR CONWAY: ..they're also conducting keno...

SENATOR SMITH: Yes.

SENATOR CONWAY: Correctly? They are also conducting pickles.

SENATOR SMITH: Uh-huh.

SENATOR CONWAY: And they are going to have to give up one or the other of...

SENATOR SMITH: Right.

SENATOR CONWAY: ..those games as of January 1, 1991.

SENATOR SMITH: And?

SENATOR CONWAY: And that's the way the law reads.

SENATOR SMITH: So what do you want to do?

SENATOR CONWAY: I want to change it.

SENATOR SMITH: (Laugh)

SENATOR CONWAY: I want to allow them to conduct one activity in each one of the authorized categories, if they so wish. In other words, they could conduct pickle, (inaudible).

SENATOR SMITH: What you're doing is actually saying one in each of the categories, but actually they could have three different kinds of...

SENATOR CONWAY: They could have three...

SENATOR SMITH: ..gaming activities going on.

SENATOR CONWAY: ..you could have three, if you want to, have lottery is another one... or I mean raffles is another.

SENATOR SMITH: So I go back to what I said originally and that is that when we passed the law we said they're confined to only one type of activity and you're saying that they have three sites, the city has three sites, and now they can have one, whichever they designate they can have one at each of the three sites.

SENATOR CONWAY: What I'm saying was when we passed that law that was a dire mistake on our part.

SENATOR SMITH: Oh, that was a dire mistake. Okay. Well, I think that I'd prefer to see this to be something that we look at when we look at, and I promise you we are looking at all of gambling in the state as one big study this next summer, and so I still would have to say that I'd propose... or I would oppose this, Senator Conway, and partially it's because there hasn't been time in... plus I haven't even seen the amendment and neither has anyone else in here. Thank you.

SPEAKER BARRETT: Thank you. Senator Withem.

SENATOR WITHEM: Yes, would Senator Conway respond to a

question?

SPEAKER BARRETT: Senator Conway?

SENATOR CONWAY: Yes.

SENATOR WITHEM: Senator Conway, does this amendment in any way infringe on the enforcement powers of the Accountability and Disclosure Commission?

SENATOR CONWAY: This one doesn't.

SENATOR WITHEM: Oh, this one doesn't. Oh, okay. Seriously, as I understand what you're doing here, Senator Conway, it does not sound to be as radical a change from status quo as some people are making it. As I understand it, up in South Sioux City you currently have a city making a... using the keno and the fire departments, which is a subdivision of the city, selling pickle cards and using those pickle cards to buy fire equipment, I'm assuming, Senator Conway, and other things of benefit for the city. I come from a community that, you know, frankly, I guess the only difference is it's fire department, Volunteer Fire Department in Papillion, Nebraska, is a private corporation as opposed to being a subdivision of city government. They sell pickle cards and the use of the charitable gambling is quite a benefit for the community and saves a lot of tax dollars. And so I guess I would speak on behalf of Senator Conway's amendment. I don't think it is a major change in state statutes and so he doesn't stand alone, that there will be at least one other green light up there for him, so I will be voting in support.

SPEAKER BARRETT: Thank you. Senator Wehrbein. Question has been called. Do I see five hands? I do. Shall debate now cease? Those in favor vote aye, opposed nay. Please record.

CLERK: 26 ayes, 1 nay, Mr. President, to cease debate.

SPEAKER BARRETT: Debate ceases. Senator Conway to close.

SENATOR CONWAY: Thank you, Mr. Speaker and members. I promised Senator Schmit a little bit of time to speak on this issue. I filed a different amendment that I think will clarify it and make it much simpler, and will also play into the hands of Senator Smith's study and all of her friends that are concerned

with any of this activity, and so I will give the remainder of my time to Senator Schmit if he will give me one moment back when he's done.

SPEAKER BARRETT: Senator Schmit.

SENATOR SCHMIT: Yes, how dare you, Senator Conway, to try to legalize anything that is probably going on now illegally. You know, it's kind of interesting once you get a little corner carved out for yourself, your little niche, you try to keep everybody else out. I don't see anything particularly wrong with what Senator Conway has proposed. I agree with Senator Withem. It's not a radical change. It says that if you're operating a little keno game and someone decides they want to propose to the city that they operate a scratch-off ticket, that they can do that, that ought to be compatible. One of the concerns I think you ought to have about this situation is how it is implemented and who makes that decision. I think so long as you get the approval of the Department of Revenue, it would not be any major catastrophe, and I guess I get a little bit amused when I hear all of the things we have to do to protect the people from gambling. One of these days hopefully you can all get up on the top of the Woodmen Tower and look out on the Missouri River and watch the riverboat go cruising down the river and there will go the last remnants of what could be some sort of revenue for the State of Nebraska. And then you can say, well, we have purged ourselves of all those sins with the exception, of course, of billions of dollars worth of illegal gambling which will continue to flourish and not pay taxes to anyone, and will continue to perhaps corrupt the morals, not only of those who play, but those who provided the opportunity to play. I commend Senator Smith for her study. I would hope, Senator Smith, that the study is wide open and that you bring in all those elements of gambling which can be of help to you and that then, in that manner, perhaps you might learn something rather than to listen to the nongamblers who consistently tell you we don't want any gambling and if we don't want any gambling and then close our eyes to that which exists we just don't have to have it. And so, with that, I will give my... the rest of my time back to Senator Conway.

SPEAKER BARRETT: Senator Conway, approximately two minutes.

SENATOR CONWAY: I won't need that, Mr. Speaker. What I'd like to do is withdraw the amendment.

SPEAKER BARRETT: It is withdrawn. Thank you. Mr. Clerk.

CLERK: Mr. President, Senator Conway would move to amend on page 3, line 8, strike "1991" and insert "1992". (See Conway amendment FA452 as found on page 1860 of the Legislative Journal.)

SPEAKER BARRETT: Senator Conway, please.

SENATOR CONWAY: Thank you, Mr. Speaker. In order to deal with the confusion, there has been some good recommendations made about the studies that are to be conducted this summer and the like, what I am requesting then is where the sunset provision was established for January 1, 1991, for to grandfather those people who are already engaged in this activity, that if we'd move that back, since we do not have that particular issue in front of us by virtue of my previous amendment, to move that back to 1992 for the sunset for those activities that are already involved and that way, while the study's being conducted, we will then have the ability to have amendments, language, whatever, drafted in such a way that these people will be protected during that transitional period. So if I could strike the "1991," insert "1992," that would accomplish my needs and apparently most of the concern people are having with amendment. That is simple enough.

SPEAKER BARRETT: Thank you. Discussion on the amendment offered by Senator Conway? Senator Hall.

SENATOR HALL: Thank you, Mr. President and members. The amendment that Senator Conway offers is a straightforward amendment that deals with adding one year to the sunset for the folks that he represents in his district with regard to their issue. Now, back to his original amendment just briefly. That... it was a substantive change. I know Senator Withem and Senator Schmit didn't feel that way but it was because we had changed that law last year. We were now going back and putting in place the ability for three different operations to be run at one time. We were placing that in statute, not allowing for it to be sunsetted but placing that in statute. So it was a substantive change. What he does here in this amendment is just say, give me another year, do the study, then let's see if there's something we can deal with that or not. It's an honest approach to the issue. I would... I'm afraid it may impact the

bill somewhat, but at least I think it does, in a very straightforward sense, address this problem. The other thing though is, is that I would question whether or not his city could not have a keno game and his volunteer fire department could not sell pickles anyway, unless they are a fire department that's a subdivision of the city. Then, of course, they would have to become a not-for-profit entity in order to sell the pickles and that would take care of their problem as well. So I'm not quite clear as to why, (A.) he currently has a problem. I understand the issue of time. He's running out of time and would like another year to correct the situation. With that, Mr. President, I will leave the body to their own sources.

SPEAKER BARRETT: Thank you. Senator Schmit. Thank you. Senator Smith.

SENATOR SMITH: Mr. Speaker, I have to stand to oppose this amendment also and I can tell you the reasons why and to me they're legitimate, Jerry. Number one, and this will be in my own thinking that it's legitimate, and that is that we've already given them a transition period. You said, let us have one more year; extend the grandfather clause one more year; give us time to transition. That's why we did it the last time and we did it specifically at your request. You were one that had a concern the last time and that's why we put the sunset date to the date that we do now have currently in law. Now, if we extend that, now here is where it really comes in where I think we could create a problem and that is that we could then set up what we would call an equal protection problem where you have... remember when we've talked about this before when we talked about gambling issues, that if you're not providing that same opportunity to everyone out there that you're creating inequity, and so if you're extending it for just some after we've already gotten these others that have done what they're supposed to do, then you could be opening another door to some new problems. And I would remind everyone that, you know, doing this kind of thing is just going to put us back to the position that we were before. So, for that reason again, I guess I will have to oppose this one, too, Jerry.

SPEAKER BARRETT: Senator Nelson, please.

SENATOR NELSON: Yes, a question of Senator Conway or maybe Senator Smith. Let's try Senator Conway.

SPEAKER BARRETT: Senator Conway, would you respond?

SENATOR NELSON: Senator Conway, have you reviewed this with the Revenue Department, or are they aware of this amendment, or do they approve of it, or Mr. Hirsch's department, or is this kind of come to your mind a little bit fast and has this been past... do they know anything about this or have they given your opinion?

SENATOR CONWAY: I so far under this current amendment have only passed it past the Chairman of the Revenue Committee rather than the Revenue Department, who I think, in a legislative matter, is the key person to address this issue to.

SENATOR NELSON: Thank you.

SPEAKER BARRETT: Senator Wehrbein. Question has been called. Do I see the five hands? I do. Shall debate now close? Those in favor vote aye, opposed nay. Record.

CLERK: 26 ayes, 0 nays to cease debate, Mr. President.

SPEAKER BARRETT: Debate ceases. Senator Conway to close.

SENATOR CONWAY: Thank you, Mr. Speaker and members. Some discussion has been given relative to transition. I'll be perfectly honest. My interest is not in forcing the city to transition relative to some previous language, but hopefully the body, within another year's study, will do some transition themselves in such a way that these kinds of activities that we know to be honest, appropriate currently, or will be by January 1 of '91 be legal. I think Senator Schmit hit the nail on the head. If, in fact, we are going to be policing this, then we need a police situation that we can control the activity. That I think we have done for the most part relative to delineating the three schemes of gambling that we do allow. I think it's more restrictive than what I desire by limiting a city who is properly conducting their business to limit their schemes to simply one. But if we're going to have three schemes, they ought to have the right to do any one of the three. That was the previous amendment. What I guess I'm asking for now is, while we're studying this situation and if, since this is not a community, is not a situation that we've had a problem with, that we allow them to continue to conduct themselves until proper information is brought before the body

in such a way that their activities are out of compliance, or not in the good public interest, or whatever other reasons we come out of relative to the limiting of these gambling operations. So by moving that grandfathering back, which is not a new concept and I'm not worried about equal protection because if equal protection were an issue we wouldn't be able to grandfather anything, grandfathering is a tried and true practice that we've done for years and years relative to legislation, so it's simply moving that grandfathering date back one more year while we're studying it and then if this body then, in the course of those studies, through 25 votes or more, deems that a city who's conducting its business the way they have been in a proper fashion shouldn't have more than simply a keno or simply a pickle game, then so be it. But during that transitional period, I would like this city and other cities who are in the same boat to be able to continue to engage in this operation. So, with that, I offer my amendment which is simply changing the 1991 to 1992.

SPEAKER BARRETT: You've heard the closing and the question is the adoption of the amendment offered by Senator Conway to LB 1055. Those in favor vote aye, opposed nay. Have you all voted? Record.

CLERK: 12 ayes, 17 nays, Mr. President, on the adoption of Senator Conway's amendment.

SPEAKER BARRETT: The motion fails.

CLERK: I have nothing further pending on the bill, Mr. President.

SPEAKER BARRETT: Senator Lindsay, please.

SENATOR LINDSAY: Mr. President, I move that LB 1055, as amended, be advanced to E & R for engrossing.

SPEAKER BARRETT: Any discussion? Senator Moore.

SENATOR MOORE: Yes, Mr. Speaker and members, just... I need to enter into a little dialogue with Senator Hall here to get some things in the record. Myself being a former 4-Her and a former spending many hours at the county fair, as well as the Ak-Sar-Ben livestock show myself, obviously those things are of great concern for me. As I have said before on this floor, I

for one, growing up where I did and with the background that I had, Ak-Sar-Ben, you know, I knew a lot more about Ak-Sar-Ben, about the good things they did long before I realized there was a race track and the gambling activity. I'm not saying that's not good either. But my concern is, particularly after reading some articles in newsprint about the future of Ak-Sar-Ben, and particularly when Mr. Druitz (phonetic) had some comments about the particular financial situation of Ak-Sar-Ben. He had mentioned a concern about the continuation of the livestock program and I guess my question to Senator Hall is, if he would, we've had some communication, if he would say it for the record just what it is that Ak-Sar-Ben plans to do with its 4-H Program, FFA Program, county fair, Good Neighbor Awards, Pioneer Farm Family Awards, Nebraska Broadcaster Awards, and Press Association Awards. I mean, what is the future of those programs with Ak-Sar-Ben?

SENATOR HALL: Okay. Thank you, Mr. President and members. In response to Senator Moore's question, I have a letter dated here March 12, 1990, and it was in response to inquiries on behalf of Senator Moore and I think others from Ak-Sar-Ben with regard to those specific issues and would these programs be continued to be funded. I think I touched on it just briefly on General File, but, in direct response to Senator Moore's questions, those programs will be continued. They will be funded. They will be funded through corporate donations. Those corporate donations have been solicited. They have been received and they are commitments for five years to continue those specific programs that Senator Moore mentioned in his question, the 4-H Livestock Exposition, 4-H Programs; FFA, county fairs, Good Neighbor Awards, Pioneer Farm Family Awards, Nebraska Broadcasters Award, and the Press Association Award as well. So I think that the letter that Senator Moore also received from Mr. Fitzgerald, representing the Board of Governors, also responded to that issue that Senator Moore asked about.

SENATOR MOORE: Mr. Speaker.

SPEAKER BARRETT: Senator Moore.

SENATOR MOORE: Well, also, and I guess just would it be safe to say that as long as there is racing at Ak-Sar-Ben and as long as there is a Coronation Ball at Ak-Sar-Ben there will be a livestock show at Ak-Sar-Ben?

April 3, 1990

LB 571A, 843A, 1055, 1221
LR 419, 420

SENATOR HALL: Senator Moore, I would be willing to say that that's a very good bet.

SENATOR MOORE: Okay.

SPEAKER BARRETT: Have you finished, Senator Moore? Okay. Any other discussion? If not, the question is the advancement of LB 1055 to E & R Engrossing. All in favor say aye. Opposed no. Carried. The bill is advanced. LB 1221.

CLERK: Mr. President, on LB 1221 I have E & R amendments, Senator, first of all. (See E & R amendment AM7200 as found on page 1738 of the Legislative Journal.)

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move the adoption of the E & R amendments to LB 1221.

SPEAKER BARRETT: Any discussion? If not, shall the E & R amendments be adopted? All in favor say aye. Opposed no. Carried. They're adopted.

CLERK: I have nothing further on the bill, Senator.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 1221, as amended, be advanced to E & R for engrossment.

SPEAKER BARRETT: Any discussion? If not, those in favor of the advancement of LB 1221 say aye. Opposed no. Carried. The bill is advanced. Mr. Clerk, items for the record.

CLERK: Mr. President, Enrollment and Review reports LB 571A is correctly engrossed, LB 843A is correctly engrossed. LB 843A, line 58, all reported correctly engrossed, both signed by Senator Lindsay. Bills read on Final Reading were presented to the Governor as of 5:29 p.m., Mr. President, new resolutions: LR 419 by Senator Wesely, Chizek, Nelson, Lindsay, Hall, Korshoj, asking the Legislature to call on ConAgra to retain the County General Stores headquarters in Grand Island; LR 420 by Senator Scofield asks the Legislature to recognize and commend all volunteers of the Cooperative Extension Boards, 4-H and Home Extension Clubs, that will be laid over; amendments to be

April 4, 1990

LB 1055, 1153, 1153A, 1221, 1246, 1246A
LR 11, 239

SENATOR WITHEM: ...they are going to vanish again, and will surface again maybe once again when the Legislature meets and starts talking about this. You also notice in this article, Regent Blank talks about what we really need is stronger centralized coordination. We regents have always favored that. That is, with the risk of offending some people, hogwash. They have never favored that. They have opposed it. As a matter of fact, it is interesting that they said what we really need is stronger coordination, they said that two days ago. Now that Senator Warner has his amendment up, they are back there in the rotunda saying, oh, no, don't do that, public hearings, all of these other silly reasons to oppose the Warner amendment. What they really want to do is to be left alone. They want to spend a quarter of our state budget without having any sort of oversight over it. That is what they really want, and they will continue to want that until this Legislature steps forward. If you are serious about doing something this session on higher education coordination, you ought to vote no on the bracket motion.

PRESIDENT: Time.

SENATOR WITHEM: If you want us to continue to wrestle with this, then you ought to vote in favor of the bracket motion. How you vote, frankly, is your own concern.

PRESIDENT: Thank you. The question is, shall the bill be bracketed? All those in favor vote aye, opposed nay. Record, Mr. Clerk.

CLERK: 4 ayes, 18 nays, Mr. President, on the motion to bracket LR 239.

PRESIDENT: The bill is not bracketed. Do you have something on it, Mr. Clerk?

CLERK: I do, Mr. President. May I read some items for the record.

PRESIDENT: Yes, please.

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined engrossed LB 1055 and find the same correctly engrossed, LB 1153, LB 1153A, LB 1221, LB 1246, LB 1246A, and LR 11CA, all of those

April 9, 1990

LB 431, 1055, 1109

CLERK: Well, Senator, I have two amendments pending to the bill that would involve motions to return. (See McFarland amendment AM2783 as found on page 1127 of the Legislative Journal.)

SENATOR MCFARLAND: I'd just withdraw them, Mr. Clerk. Thank you.

PRESIDENT: Both of them, Senator McFarland?

SENATOR MCFARLAND: Yes.

PRESIDENT: Okay, they are both withdrawn. Read the bill, Mr. Clerk.

CLERK: (Read LB 1109 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall the LB 1109 pass? All those in favor vote aye, opposed nay. Have you all voted? Have you all voted? Record, Mr. Clerk, please.

CLERK: (Record vote taken as found on pages 1998-99 of the Legislative Journal.) 38 ayes, 0 nays, 3 present and not voting, 8 excused and not voting, Mr. President.

PRESIDENT: LB 1109 passes. LB 431.

CLERK: (Read LB 431 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 431 pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Record vote taken as found on pages 1999-2000 of the Legislative Journal.) 39 ayes, 0 nays, 4 present not voting, 6 excused and not voting, Mr. President.

PRESIDENT: LB 431 passes. LB 1055, with the emergency clause attached.

CLERK: (Read LB 1055E on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 1055 pass with the

April 9, 1990

LB 1055, 1124

emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: (Record vote taken as found on pages 2000-01 of the Legislative Journal.) The vote is 39 ayes, 0 nays, 4 present not voting, 6 excused and not voting, Mr. President.

PRESIDENT: LB 1055 passes with the emergency clause attached. LB 1124.

ASSISTANT CLERK: (Read LB 1124 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 1124 pass? All those in favor vote aye, opposed nay. Have you all voted? Senator Schmit.

SENATOR SCHMIT: Mr. President, could I have a roll call vote, please?

PRESIDENT: Yes. Roll call vote is requested. Please be in your seats if you have strayed.

SENATOR SCHMIT: Would you request them to check in, please, also? Would you have them check in, please, Mr. President?

PRESIDENT: Please record your presence. Please record your presence. All senators must be in their seats at this time, please, and please record your presence. It's necessary that you record your presence. Senator Conway and Senator Haberman, you must check in, please. Senator Haberman, would you record your presence, please, so we can continue? Thank you. A roll call vote has been requested on Final Reading, Mr. Clerk.

CLERK: (Roll call vote taken as found on pages 2001-02 of the Legislative Journal.)

SENATOR SCHMIT: Schmit changing from "yes" to "not voting", Mr. President.

PRESIDENT: Senator Schmit.

SENATOR SCHMIT: (inaudible) reconsideration.

CLERK: Senator Schmit changing from "yes" to "not voting".

April 9, 1990

LB 431, 1031, 1055, 1059, 1109, 1124, 1141
1153, 1153A, 1221, 1246, 1246A
LR 11

retarded in our state. But let's do so in a fashion that makes sense, that is accountable, and we understand exactly what we're getting for our money. And, so these could have been met, both of these goals could have been met with language the Appropriations Committee put out, but that language was rejected. Instead money was added and language deleted, and so that is what's put me in this quandary. I hope, as we work through this issue, and I think we should take some time, it's a 2 million dollar issue, we should try and understand what we hope to accomplish through this change. And I would like to see, on the part of those particularly promoting this amendment, a commitment to deal with this problem and correct these problems, and that might ease my concerns and allow me to vote for this. I need to hear from supporters of this that they know there is a problem and want to deal with this...

PRESIDENT: Time.

SENATOR WESELY: ...problem, otherwise we simply get ourselves into a cycle and a Catch 22 that will not ever end and continue down the road with further problems.

PRESIDENT: Thank you. While the Legislature is in session, and capable of transacting business, I propose to sign and do sign LB 1109, LB 431, LB 1055, LB 1124, LB 1153, LB 1153A, LB 1221, LB 1246, LB 1246A, LR 11, and LB 1141. Senator Warner, please, followed by Senator Hannibal.

SENATOR WARNER: Mr. President, members of the Legislature, again, I indicated earlier that as we go along I would at least inform you of the status of the reserve fund as we go. And, as indicated earlier, LB 1059, and that's the only thing we can key to on this because it does make a difference, if this amendment is adopted, and if 1059 is overridden, why there will be a million four left that could be overridden this year and still maintain the 3 percent reserve. However, if this is overridden, if you look out beyond into the next biennium, we would be in a two and a half million deficit situation. But that is no legal requirement to observe that. But it is something that one needs to keep in mind, that assuming that the growth is something less than 6.5 percent in each of the two years in the following biennium, why we would certainly have a problem. On the other hand, if 1059 is not overridden, why then there is something like 3.6 million left, even though this is overridden. And that then is not so tight. But you should keep in mind that as we go

Review Board. There is currently only one supervisor for the entire state. Can you imagine one supervisor going across the entire state with the amount of problems that we have in the foster care board at the present time? The cost of this supervisor would be \$33,070 for this supervisor, plus another \$840 for the travel expenses. With the current focus on child abuse and with the Franklin situation, it's very important that we have one more supervisor for this state. If we do nothing else this year, we need to protect the children. We need to have this supervisor out there to help coordinate things, so it's very important that we have this individual out there to help the Foster Care Review Boards. We're only talking about \$30,000, so I would move for this motion, please.

SPEAKER BARRETT: Any discussion? Seeing none, anything further, Senator Schellpeper? Thank you. The question is, shall the veto be overridden? The question is involving foster care. Those in favor of overriding, please vote aye, opposed nay. Have you all voted? Have you all voted if you'd care to vote? Senator Schellpeper.

SENATOR SCHELLPEPER: Why don't we just have a roll call vote. Everyone check in, please, and have a roll call, please. Thank you.

SPEAKER BARRETT: Members, please check in. Senator Moore, Senator Byars, Senator Lynch, Senator Wesely, Senator Warner, Senators Landis and Langford, Senator Schmit, Senator Smith. Senator Labedz, Senator Chambers, Senator Robak, Senator Chizek. Senators Wesely and Chambers, would you please record your presence. Mr. Clerk, would you proceed with the roll call.

CLERK: (Roll call vote taken. See pages 2030-31 of the Legislative Journal.) 33 ayes, 10 ayes.

SPEAKER BARRETT: Motion is adopted. The veto is overridden. Next item, please.

CLERK: Mr. President, that completes everything I have on LB 1031. I do have some items for the record.

SPEAKER BARRETT: Proceed.

CLERK: Mr. President, bills read on Final Reading have been presented to the Governor as of 4:03 p.m. (Re. LB 1109, LB 431,

April 9, 1990

LB 163, 1055, 1099, 1124, 1153, 1153A, 1221
1246, 1246A
LR 427

LB 1055, LB 1124, LB 1153, LB 1153A, LB 1221, LB 1246, and
LB 1246A.)

I have an explanation of vote by Senator Landis and a study resolution by the Banking Committee, that is offered...signed by its membership, Mr. President. (LR 427. See page 2032 of the Legislative Journal.)

Mr. President, the first motion I have with respect to overrides of legislation is LB 163. Senator Rod Johnson would move that 163 become law notwithstanding the objections of the Governor.

SPEAKER BARRETT: Senator Rod Johnson, please.

SENATOR R. JOHNSON: Mr. Speaker, members, my comments will be short and, hopefully, to the point. I guess LB 163 is a substantial policy choice question this Legislature is going to have to make. I know that you have been lobbied heavily on both sides of this issue, and I can appreciate that, and I hope that you've made up your mind. I'm not sure that the debate will add much to the vote that you're about to cast, but I wanted to get some things in the record nonetheless. You know as we all get these notices from the Governor as to why she vetoed the bill, I'm not sure they serve any service other than to piss us off. But I'm at the point right now where LB 163 has three points in it, her veto message, that tell us how she feels about LB 163. The first is she says the first is that LB 163 fails to build upon the work commissioned by the Legislature, past work. Then she mentions a bill I passed in this Legislature a few years ago to commission a study to look into the solid waste problems that Nebraska has. That study pointed out we have a substantial number of solid waste or landfills in Nebraska that have really some substantial environmental and health risk problems to Nebraskans. I realize that, that's what the purpose of this bill has been from the beginning is to begin the process of moving ourselves forward to deal with solid waste. Granted, it doesn't help clean up the contamination that is there, but we have other programs that are designed to help, walk in and start the process of looking at water contamination problems that exist with SPAs or special protection areas. Senator Schmit and I carried a bill this year, LB 1099, which did not make it through the process, but again is a bill that would have helped us deal with some of the contamination problems that exist. What this bill does is basically say we recognize that EPA is going to be coming down in this state very soon, within probably