

January 18, 1989

LB 53, 57, 123, 537-597
LR 8-12

Mr. President, new bill. (LBs 537-538. Read for the first time by title. See page 268 of the Legislative Journal.)

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: The Chair is pleased to announce that Senator Jacklyn Smith of Hastings has visiting the Legislature today Dr. Robert Schlock and 20 students from Hastings College, specifically, psychology and law class, in the east balcony, the rear balcony. Dr. Schlock, would you and your students please stand and be recognized by your Legislature. Thank you. We are pleased to have you visiting with us today. Also under the north balcony from David City High School, Senator Schmit announces the following guests, 8 students from David City High School with their teacher. Would you folks please stand and be recognized. Thank you for visiting. We are glad to have you. Mr. Clerk, more bill introductions, please.

CLERK: Mr. President, first of all, your Committee on Urban Affairs, whose Chair is Senator Hartnett, to whom was referred LB 53, instructs me to report the same back to the Legislature with the recommendation that it be advanced to General File; LB 57 General File; LB 123 General File, all signed by Senator Hartnett as Chair of the committee.

Mr. President, new bills. (LBs 539-557 read for the first time by title. See pages 269-72 the Legislative Journal.)

SENATOR HEFNER PRESIDING

SENATOR HEFNER: Mr. Clerk, do you have some more bills to introduce?

ASSISTANT CLERK: Yes, I do, Mr. President. (LBs 558-593 read for the first time by title. See pages 273-81 of the Legislative Journal.)

SENATOR HEFNER: Do you want to read the bills into the record?

CLERK: Yes, Mr. President, thank you. (LBs 594-597 read for the first time by title. See page 281 of the Legislative Journal.)

Mr. President, in addition to those items, I have new resolutions. (Read a brief explanation of LRs 8-12. See

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LB 147, 591, 689, 751
LR 63

judges would be allocated by the Judicial Resources Commission. It's quite likely that that commission would allocate them to Douglas County, given the large caseload that they have there, but that is not an absolute requirement and it would be up to the commission to decide. In the amended form now it would add one additional juvenile court judge. I think that it is necessary. I think we need to realize that there is a backlog of cases at all levels and that litigation is becoming more complex, more people are resorting to the courts and it's really not a question of trying to reduce the workload for any particular judge, it is a question of reducing the backlog and cases that do not necessarily get heard. And I think this will be one mechanism at making the system a little more efficient, a little equitable and a little more fair to the parties who will be involved in the cases that these particular courts will hear. So I would urge you to vote in favor of LB 147 in its amended form. Thank you.

SPEAKER BARRETT: Thank you. The question is the advancement of LB 147 to E & R Engrossing. Machine vote has been requested. Record vote. Those in favor of the advancement of the bill vote aye, opposed nay. Have you all voted? Record, please.

CLERK: (Record vote read. See page 1353 of the Legislative Journal.) 31 ayes, 3 nays, Mr. President, on the advancement of 147.

SPEAKER BARRETT: LB 147 is advanced. The A bill, Mr. Clerk.

CLERK: Mr. President, may I read some things before we get to the A bill?

SPEAKER BARRETT: Certainly, proceed.

CLERK: Mr. President, your Committee on General Affairs whose Chair is Senator Smith, to whom was referred LB 591, instructs me to report the same back to the Legislature with the recommendation that it be advanced to General File with amendments; and LB 751 indefinitely postponed. (See pages 1353-55 of the Legislative Journal.) Health Committee reports LB 689 to General File with amendments. (See pages 1355-56 of the Legislative Journal.) Those are signed by the respective Chairs.

New resolution, Mr. President, LR 63. (Read brief description

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LB 591

PRESIDENT: All right, we'll move on to LB 591.

CLERK: Mr. President, 591 was a bill introduced by Senators Schmit, Schellpeper and Labedz. (Read.) The bill was introduced on January 18 of this year, Mr. President. The bill was advanced to General File. I have committee amendments pending by the General Affairs Committee. Senator, would you like to offer your amendment to the committee amendment now? In addition to the committee amendments, Mr. President, Senator Smith would move to amend those. Senator, I have your amendment number 1394 pending.

PRESIDENT: Senator Smith, would you like to take up your amendment to the committee amendments?

SENATOR SMITH: Yes.

PRESIDENT: All right.

SENATOR SMITH: Thank you, Mr. Chairman, members of the body, I'll give you just a brief introductory sentence to let you all know what we're talking about here. We're talking about LB 591 which authorizes and regulates interstate simulcasting of horse racing as authorized by a vote of the people under Constitutional Amendment 2 in 1988, Senator Chambers. (Laugh.) It was by a vote of the people that was authorized. I wanted to make that very clear to the members of the body. What my amendment would do is clarify the committee language regarding the requirements to be met before the Racing Commission approves interstate simulcasting as it applies to the quarter horse tracks. It simply says that "regardless of the total number of days of live racing conducted in each year", that's all it does. It fits in on page 3, Section 6, lines...where you start with line 15, it says after "race track" insert "conducting primarily quarter horse races in the year immediately preceding the year for which application is made", and then I insert "regardless of the total number of days live racing conducted in such year", and then go back into the language of the committee amendment. It's a simple, clarifying amendment, and it has the approval of the industry. I would ask for your support in adopting this amendment to the committee amendments.

PRESIDENT: Senator Chambers, please, did you wish to speak about the Smith...Senator Nelson, on the Smith amendment to the committee amendments.

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LB 591

SENATOR NELSON: Senator Smith, would you respond to a question, please. Does this open this up to any more tracks for racing or anything, just a little technical amendment, trust me?

SENATOR SMITH: No, it's not a trust me, Senator Nelson, you know me. (Laughter.)

SENATOR NELSON: Yes, I do.

PRESIDENT: Maybe that's why she asked.

SENATOR SMITH: The committee...this is...it's kind of bad that I have to explain the clarifying amendment before the committee amendments, but that is absolutely all it does. We already have language in the committee amendments, which I will explain when we get to that point, which we thought were very clear. But there was some concern that the way it was written was not absolutely worded adequately, so that's just why I ask for the adoption of these few little words to the amendment. If you don't like the amendment itself, we can discuss that when we get to that point in time, unless you'd like to go into the amendment.

SENATOR NELSON: No, thank you. If I'd probably done my homework right, I would have not had to ask you that question. Thank you.

SENATOR SMITH: Thank you.

PRESIDENT: Senator Smith, would you like to close on your motion?

SENATOR SMITH: I would ask for the adoption of the amendment to the committee amendments.

PRESIDENT: Okay. The question is the adoption of the Smith amendment to the committee amendments. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of Senator Smith's amendment to the committee amendments.

PRESIDENT: The Smith amendment to the committee amendments is adopted. Now, Senator Smith, you going to take the committee

amendments? All right.

SENATOR SMITH: Thank you, Mr. Chairman, members of the body. I won't go into the bill itself, I'll leave that to the introducers of the bill. But I will now go directly into the committee amendments regarding simulcasting. And I will give them to you in the order that they are provided in the amendment itself. The first thing that it does is include simulcasting handles as a part of the total handle toward the \$100 million tax threshold that we've established in the past. Secondly, we clarify reporting procedures. Third, it sends 1 percent of the simulcasting wagers to breeders fund, along with the 1 percent exotic wagers. Four, it provides for input and recommendations from thoroughbred breeders to the commission. Five, it requires the commission to consider impact of interstate simulcasting on the entire horse breeding industry in Nebraska. Six, it exempts quarter horse tracks from the 90 percent race day requirements of the total days that are allowed. Seven, it allows a committee to waive that requirement for thoroughbred tracks, if the standard is not met due to natural disasters. And, eight, it requires the commission to consider whether all areas of the state are being served and have access to simulcasting at licensed tracks when deciding whether to approve or deny application for simulcasting. That's the entirety of the committee amendment. If there are any questions, I would try to answer them, otherwise I would ask for the adoption of the amendments to the bill.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: For discussion, Senator Chambers, Senator Rod Johnson next.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, because of the time of day I'm not going to do much or try to do much on this bill. It would be as easy, whatever I might have in mind to do, to accomplish it on Select as it would on General, so I'm not going to hold it up. But I'd like to ask Senator Jackie Smith a question, if I may, or two, a question or two.

SPEAKER BARRETT: Senator Smith.

SENATOR CHAMBERS: Don't breath so hard. (Laugh.) Senator Smith, have you ever heard the name Pete Rose?

SENATOR SMITH: No.

SENATOR CHAMBERS: I don't need to ask you any more questions.
(Laughter.)

SPEAKER BARRETT: Senator Rod Johnson, followed by Senator Nelson.

SENATOR R. JOHNSON: Mr. President, members, there were basically two bills that were introduced this year on interstate simulcasting, one was Senator Schmit's bill that we're now discussing, the other was a bill that I introduced on behalf of the Nebraska Breeders Association, it was LB 736. And the major difference between those two bills happened to deal with the length of time that interstate simulcasting could be broadcast into the State of Nebraska. There was concern, there still is concern, and that is part of the reason that there are committee amendments that call for consultation with the breeders on the impact of interstate simulcasting and having some say on the board as to how interstate simulcasting will be used. But the concern is that as we allow interstate simulcasting to take place in the state, on a year-round basis, how does that affect the live horse racing that goes on in our state in the nine and a half months that we have in this state. I think the breeders are concerned that with interstate simulcasting and some of the larger simulcast races that will come into the state that there might be an impact on the preference of the more sophisticated horse bettor that they may not wish to observe the races that may not be as of high a quality as some of the races that they'll be getting through interstate simulcasting. So, as I said, through a compromise that was reached with the Nebraska Breeders Association and the tracks and through the leadership of Senator Smith we, I think, reached a point where everyone feels they have an opportunity to have a say in how interstate simulcasting will work in the state. I still have some sincere concerns with the impact that interstate simulcasting will have on a year-round basis to live racing. I hope we keep that in mind, because I think interstate, or at least live racing in the state will benefit from interstate simulcasting. But we don't want to saturate the market to a point where we lose the interest of those who like to observe live racing in our state. So I hope that you'll keep that in the back of your minds as you vote on this issue.

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LB 591, 736

SPEAKER BARRETT: Senator Nelson, please.

SENATOR NELSON: Mr. Speaker, members of the body, I could have addressed the bill. I, too, am a co-sponsor on LB 736, and I share the same concerns as Senator Johnson just expressed. I do want to commend Senator Smith and the committee hopefully getting a compromise on this simulcasting bill. And I do...I have some reservations. But, as everything, we try to compromise and we try to work it out to the best of our ability. So I do support the committee amendments, and I also, while I'm up here speaking and I hope that this bill can move through rather rapidly. This bill has the emergency clause on it. And I will tell the body that as far as the amount of the tax dollars and so on, or the possibility to come into the state, the Kentucky Derby is the first Saturday in May. And the tracks would estimate a 25 percent increase in attendance and so on for that particular race. Any delay that we do in the legislation and so on, the industry itself is simply losing money. One of the horses that used to run in Grand Island will be running in that race. I would hope that the body would adopt the amendments and we could vote on the bill. Thank you.

SPEAKER BARRETT: Senator Schellpeper, please.

SENATOR SCHELLPEPER: Question.

SPEAKER BARRETT: Question has been called. Do I see five hands? I do. Shall debate now cease? All in favor vote aye, opposed nay. Record, please.

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

SPEAKER BARRETT: Debate ceases. Senator Smith, please, to close.

SENATOR SMITH: I ask for the body's support in adoption of the amendment...committee amendment. Thank you.

SPEAKER BARRETT: The question is the adoption of the committee amendments to LB 591. All in favor vote aye, opposed nay. Record, please.

CLERK: 26 ayes, 0 nays, Mr. President, on the adoption of the General Affairs Committee amendments.

SPEAKER BARRETT: The committee amendments are adopted. To the bill, Senator Schmit, would you care to explain the bill?

SENATOR SCHMIT: Mr. President and members, the Legislature, in 1987, approved LB 708 which authorized intrastate simulcasting. This was after an attempt, over many years, to convince the tracks and the horsemen that there was in fact a demand for such an event in the State of Nebraska. I well recall many years ago when we first proposed such an idea it was considered almost heresy to even debate it, and so it took a long time and it took a lot of effort for us to admit that perhaps that might be a logical extension of the thoroughbred racing industry. I'm convinced that the dire financial straits of the various tracks had no impact or no influence upon the change of view, it was just simply an idea whose time had come. But nonetheless we did authorize intrastate simulcasting. And during the first full year of simulcasting, in 1988, about one-third of the total amount wagered was from the simulcast effort. So it has been very successful for all segments of the horse racing industry. Because of the constitutional requirements, the Legislature could not authorize interstate simulcasting, and therefore Senator Vard Johnson sponsored a constitutional amendment, that was approved by the voters in 1988, that would allow us to bring out of state racing into Nebraska. In other words we can, by the passage of that amendment and the passage of this bill, then simulcast races such as the Kentucky Derby, Belmont Stakes, Preakness and other races that are of interest in Nebraska. Senator Rod Johnson mentioned the concern that was expressed relative to whether or not it might have an adverse impact upon the industry here in Nebraska. It has been expressed many times on this floor that thoroughbred racing is principally an agricultural pursuit. I don't have all of the statistics that have been quoted many times about the number of dollars that are invested in the thoroughbred horse racing industry in the State of Nebraska, in horses, in equipment, in the amount of oats they eat, in the number of bales of hay they consume, the amount of manure they produce which has a very beneficial effect upon the crop production in the State of Nebraska, but it's all down in the statistics, and I'm sure that there are those in the Rotunda out there who can give it to you, if you want it. You know in some ways the Legislature is a little bit like the thoroughbred industry, you've got the stables down here where our offices are located, you've got the trainers out there in the Rotunda, and then we are the thoroughbreds here. And as it usually happens on this floor as you come into the body you start out as kind of

a \$2,500 claimer and you carry more or less trashy bills, as you become a little more experienced you carry the more important bills, and eventually you become really experienced, you get up to where you serve on the very important committees, Appropriations and Revenue, and then after a while you peak, and you begin kind of a downhill slide, and that is kind of like...about an 8-year-old thoroughbred, and you decide, well, maybe the best thing I can do is try to avoid being retired. In the case of a thoroughbred you go on down to the Alpo plant and when you break out of the gate you just kind of run along with the herd and you hope to finish third or fourth and avoid breaking a leg or something. That's the way we do it on this floor here. So there are a lot of similarities between the thoroughbred industry and the State Legislature. But I want to point out also that here on the legislative floor many times we debate the impact of the industry upon the population, and we discuss whether or not the side effects, the parimutuel betting is meritorious or otherwise. Well, parimutuel betting falls under the description of good gambling. And so those of you who have any doubts about whether or not you ought to enlarge and expose a greater share of the population to the benefits of interstate simulcasting, I want to reassure you that parimutuel betting is good gambling and it doesn't necessarily corrupt your morals, in the opinion of most of us, if you participate in it. I want to say also that we estimate that interstate simulcasting could perhaps increase the handle by maybe 20 percent over what we have now. We might even, thereby, get the handle up to the point where the tracks would again begin to pay a little tax to the State of Nebraska, which of course is of deep interest to all of us. I want to say this, that as I said earlier, the General Affairs Committee did a lot of work on the bill, and there have been some attempts made to address some of the other concerns. I had another bill, LB 641, which was somewhat debated as to whether or not it would be a reasonable amendment to this bill. I think it would be. I'm not going to offer it at this time, I'm going to go along with the spirit of Senator Chambers and hope the bill will move somewhat smoothly today. If there is any need for additional consideration, if there are other amendments that need to be offered, hopefully we can do it on Select File. I would hope the bill could be advanced and that we could move it along so that if it does become law, and that is the wishes of the people of this Legislature and the Governor of the State of Nebraska that it can become law soon enough so that we can enjoy the benefits of interstate simulcasting on the Kentucky Derby this year. Therefore,

Mr. President, I have no further comments at this time. I'm willing to answer any questions that might be brought up.

SPEAKER BARRETT: Thank you, sir. Discussion on the advancement of the bill. Senator Labeledz, followed by Senator Schellpeper.

SENATOR LABEDZ: Thank you, Mr. President. As co-sponsor of LB 591 I rise in support of LB 591, and also as a member of the committee. I apologize to Senator Schmit because I don't know whether he mentioned it or not, but on the constitutional amendment 2, which was permitted...which permitted simulcasting was passed in November of 1988 by 62.5 percent of the people voting in this state. And LB 591 is just enabling legislation for that ballot question. I know in the committee there was some concern that interstate simulcasting might endanger live racing in Nebraska. But now I believe that everyone is in agreement that LB 591 is a good bill and it should be passed. The five thoroughbred race tracks and the Horsemen's Benevolent and Protective Agency, which represents the owners and trainers, and both of Nebraska's breeders associations have agreed on the language of LB 591. It also, and I think this is very important, contains provisions whereby the Nebraska Racing Commission and the horsemen, in any currently operating race track, must give their permission before any interstate simulcasting can be conducted in any Nebraska race track. Therefore I urge the advancement of LB 591. Thank you very much.

SPEAKER BARRETT: Thank you. Senator Schellpeper.

SENATOR SCHELLPEPER: Thank you, Mr. Speaker and members. I also rise to support 591. I know out at the State Fair Park, at a meeting this last weekend, we decided that we're going to have a lot of big celebrations for several races out there. The Kentucky Derby is coming up on May 6th, so we need to move this bill right along. And there are other, several big races that will be coming up. I know all the other tracks are planning to have some big celebrations, too. So I would just urge that we move this bill as soon as possible. Thank you.

SPEAKER BARRETT: Senator Goodrich.

SENATOR GOODRICH: Question.

SPEAKER BARRETT: Thank you, that won't be necessary. Senator

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LB 89, 311, 591, 761

Schmit, would you care to close. For closing, Senator Schmit.

SENATOR SCHMIT: Mr. President, I move the bill be advanced.

SPEAKER BARRETT: Thank you. The question is the advancement of LB 591 to E & R Initial. All in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk.

CLERK: 31 ayes, 1 nay, Mr. President, on the motion to advance LB 591.

SPEAKER BARRETT: LB 591 is advanced.

CLERK: Mr. President, I have a motion, a unanimous consent request by Senator Hall to expedite LB 591.

SPEAKER BARRETT: If there are no objections, so ordered. Anything for the record, Mr. Clerk?

CLERK: Mr. President, just one item. Senator Chambers has amendments to be printed to LB 761. That's all that I have. (See page 1761 of the Journal.)

SPEAKER BARRETT: Thank you. Select File, senator priority bills. LB 311. Okay, Senator Landis on the bill.

SENATOR LANDIS: Yes, Mr. Speaker, members of the Legislature. An Attorney General's Opinion, delivered to the Clerk just this afternoon, indicates, upon first reading, that an amendment is in order. I'd like the body's indulgence to pass over 311 today for the purposes of preparing the appropriate amendment, printing it in the Journal and then renewing the advancement of 311 at that time.

SPEAKER BARRETT: Thank you, Senator Landis. So be it. We'll pass over the bill for the time being. Moving then to LB 89, Mr. Clerk.

CLERK: Mr. President, LB 89 was last considered on April 3, at that time Enrollment and Review amendments were offered. Senator Withem offered a motion to indefinitely postpone. Senator Lynch, as introducer, laid the bill over. Senator Withem's motion is now pending, Mr. President.

SPEAKER BARRETT: Senator Withem, please.

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LB 247, 438, 438A, 591, 611

amended. Those in favor say aye. Opposed no. Carried. The bill is advanced. Anything for the record, Mr. Clerk? The A bill, I am sorry, proceed.

CLERK: I have no amendments to the bill, Senator.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 438A be advanced to E & R Final.

SPEAKER BARRETT: You have heard the motion to advance the A bill. Those in favor say aye. Opposed no. The ayes have it. Carried. The bill is advanced. Messages on the President's desk.

CLERK: Mr. President, Enrollment and Review reports LB 591 to Select File with Enrollment and Review amendments attached.

Senator Wehrbein would like to print amendments to LB 247; and Senator Warner to LB 611. (See pages 1795-96 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you, and let the record indicate that Senator Hefner had some guests in the north balcony from East Catholic Middle School in St. Helena, Nebraska, 23 eighth graders with their teacher. Senator Beyer, would you care to adjourn the body?

SENATOR BEYER: Mr. Speaker and members, I move that we adjourn until nine o'clock on April 20th.

SPEAKER BARRETT: Thank you. The motion is to adjourn until tomorrow morning at nine o'clock. Those in favor say aye. Opposed no. Carried. We are adjourned. (Gavel.)

Proofed by: Arleen McCrory
Arleen McCrory

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LB 591

to start on LB 591?

CLERK: Yes, sir, we are.

PRESIDENT: Okay.

CLERK: Mr. President, 591 is the first bill on Select File. The first item I have are Enrollment and Review amendments.

PRESIDENT: Senator Schmit, could you handle that for us, E & R?

SENATOR SCHMIT: Yes, Mr. President, I so move.

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. They are adopted.

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

PRESIDENT: Senator Schmit, would you like to talk about the advancement of the bill?

SENATOR SCHMIT: Yes, Mr. President, I would. LB 591, as you know, is the interstate simulcasting bill. We're trying to put it, as you know, on a fast track so that the benefits of that bill are available for the Kentucky Derby. There have been a number of horsemen from varying groups who have been trying to attach an amendment to this bill that would, in their opinion, adapt some of the problems that right now are involved with the definition of a Nebraska-bred horse. I've been trying to work with those groups for a long time. Other legislators have tried to work compromises. Senator Smith tried within the committee, Senator Elmer outside the committee. Others have also worked with it. We don't have agreement yet, but I'm not going to hold the bill up at this time. I want you to go ahead and advance it, but it does not mean that if Senator Owen Elmer or someone else, including Senator Smith or myself, can make some progress, that we might not try to add another amendment to it but at this time I move for the advancement of the bill.

PRESIDENT: Thank you. Senator Schellpeper, please.

SENATOR SCHELLPEPER: Thank you, Mr. President and members, I also rise to support the advancement of 591. It's very important to the racehorse industry that we get this bill moved and I just want to echo what Senator Schmit said. Thank you.

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

SENATOR NELSON: Mr. Speaker, members of the body, I guess I don't need to say anything more. We are always looking for state revenue and so on and for the tracks to be able to simulcast the Kentucky Derby is exciting and interesting and hopefully that the bill will move rapidly through and that we can take it up and the people did support this in their vote last year. And as Senator Schmit said, hopefully everything can be negotiated out and worked out in the next few days and I just move for the advancement or hope people support it.

PRESIDENT: Thank you. Senator Smith, please, followed by Senator Elmer.

SENATOR SMITH: Thank you, Mr. Chairman and members of the body, I support very strongly the fact that we need to advance this bill. As you know, the date, May 6, is the date that they are aiming for and we need to expedite the process and I would ask that it be expedited one more time as it goes to Final Reading. I'm asking that as a request right now. Secondly, I would tell you a little bit about the fact that LB 641, which is the controversial bill among the breeders, we did meet in committee yesterday and still have not reached an agreement on that yet, and I thank Senator Owen Elmer publicly for his work in trying to work with them. At this point, I would not be supportive, nor would I be on Final, of doing anything to attach anything to LB 591. I want to see it get through the process and I want to see it go on its own and then let's deal with 641 as a separate issue. The committee is still working on that. We're going to try to get it out, we're going to send it to the floor as a message and we hope that they're going to work on that during the interim and we would have a bill for them then next year. Thank you.

PRESIDENT: Thank you. Senator Elmer, please.

SENATOR ELMER: Thank you, Mr. President, I just want to echo what Senator Schmit and Senator Smith had to say about LB 641. I think that the thoroughbred industry in Nebraska is at a state of schism and we need to be able to do something that will bring this group back together and I've been working as kind of a go-between between the two groups to try to reach an

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LB 591, 710

arrangement. When we bring LB 641 to the floor I would expect it to have things that the racetrack owners, the thoroughbred horse breeders, the thoroughbred horse owners, all look at as detrimental things to their particular interests, and if everybody is mad about the bill, maybe that makes it a good one. I'm not sure, but we're going to try to something. Hopefully we can have some accord among the various groups when we finish. Thank you.

PRESIDENT: Thank you. Senator Korshoj, please.

SENATOR KORSHOJ: Question.

PRESIDENT: Thank you, you're the last one. Senator Schmit, would you like to close on the advancement of the bill? Okay, the motion is to advance the bill. All those in favor say aye. Opposed nay. It is advanced. LB 710, please.

CLERK: Mr. President, on LB 710 I have no E & R amendments. I do have a motion, however. Senator Schmit would move to indefinitely postpone LB 710. Senator Scofield would have the option to lay the bill over, Mr. President.

PRESIDENT: Senator Scofield, would you like to speak to us about whether you'd like to take it up now?

SENATOR SCOFIELD: Let's take it up.

PRESIDENT: Did you say take it up?

SENATOR SCOFIELD: Yes.

PRESIDENT: All right. Senator Schmit.

SENATOR SCHMIT: Well, Mr. President and members, it isn't very often in the course of a legislative career that we have more money than we know what to do with, but from time to time it appears that that has happened and it has happened this year and as a result we have a tendency to throw money around in an irresponsible manner. LB 710 appropriates along with it \$25,000 to repeat a study that has been performed in the past and to duplicate a report that has been completed by the Water Management Board. I wish, Mr. President, that we'd have a little less hubbub here.

PRESIDENT: The motion fails. Do you have anything for the record, Mr. Clerk?

CLERK: Mr. President, Enrollment and Review reports LB 591 as correctly engrossed. New A bills. (Read LB 591A and LB 335A by title for the first time. See pages 1802-03 of the Legislative Journal.) That's all that I have, Mr. President.

PRESIDENT: Approaching at the moment in the north balcony, Senator Goodrich has guests coming in. There are 56 students from Westgate Elementary School in Omaha, Nebraska with their teacher. Would you wave to us, students, so that we can recognize you for visiting us today. And thank you for visiting us. Mr. Clerk.

CLERK: Mr. President, Senator Wesely would move to amend. (See page 1803 of the Journal.)

PRESIDENT: Senator Wesely, please.

SENATOR WESELY: Thank you, Mr. President and members, this amendment follows an expected vote on the last amendment and raises the issue for discussion about why it would be appropriate to move with Kearney and not appropriate to include all the other state colleges. Now I understand there may be some differentiations, obviously size would be one, but in my estimation the role and mission of the state colleges is very similar that the differences are rather small in nature in terms of what their intent is. Their differences in size of the student population is certainly great, but a university is not a university just because of its size. It's a university because of its role and its mission, its function, its programs, its faculty, and there is a lot of different factors involved with that. And I frankly contend that if Kearney is a university, then you can as well argue that the other state colleges could be considered a university as well. I have in my own district Wesleyan University, a small university that has about 1,000 students. The other state colleges are as big as Wesleyan is. It is considered a university. And so in my view the question really is, why single out Kearney and why not include the other state colleges as we make this change? If the goal is to better coordinate and prioritize in higher education, then the better course of action would seem to me to include all the state colleges and not just one of the state colleges. And this is

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LB 591, 591A

long hours with those lights. I would appreciate it and perhaps my colleagues would as well if we could pursue the notion of either dimming or turning off the lights towards the time that we normally do so that we can forego the extra aggravation that that creates. Thank you.

SPEAKER BARRETT: Thank you. Your point is well taken. We'll take it under advisement. Proceed, Mr. Clerk, to item 8.

CLERK: Mr. President, Senator Schmit would move to suspend Rule 7(b) so as to permit the consideration of LB 591 and LB 591A on Final Reading today.

SPEAKER BARRETT: Senator Schmit.

SENATOR SCHMIT: Mr. President and members, as you know LB 591 is a bill which will allow the interstate simulcasting of races and the bill has moved right along. I appreciate the expediting of the bill several times, and I know that there are those who are anxiously awaiting to determine if the bill will be read in time for the racing industry here in Nebraska to simulcast the Kentucky Derby this Saturday. There are those, in fact, who have already begun to advertise that. I don't know what would be the result if the bill didn't pass today. It would be a little bit embarrassing to say the least, but in any case, I would appreciate it very much if we would suspend the rules and read LB 591 at this time.

SPEAKER BARRETT: Thank you, Sir. It is debatable. Any discussion? Senator Hall.

SENATOR HALL: Thank you, Mr. President and members, I rise in support of Senator Schmit's motion to read the bill. I am looking forward to simulcasting. Because of the advertisement, I know it's coming and it's kind of predestination, if you will, but be that as it may, Senator Schmit, would you yield to a couple questions just for purposes of establishing some legislative intent?

SPEAKER BARRETT: Senator Schmit.

SENATOR SCHMIT: Yes, I would, Senator. I just want to say also I had nothing to do with the advertising. I'm not quite that presumptuous to line up the advertising before the bill becomes law.

SENATOR HALL: Senator Schmit, I would not think that you would even consider anything like that. But, Senator Schmit, I do have a couple questions on the Final Reading copy of the bill on page 13. We deal with the issue between line 7 and 13 of the provision in the bill when you discussed it both on General and Select File, the issue of a track having to be in operation for at least 90 days, 90 percent of the days that they are given, in order to function for simulcast purposes. And, again, this is on page 13 of LB 591, the Final Reading copy, and it's lines 7 through 13 that spell out the reasons for which they could, I guess, fall outside that 90 percent rule and there it reads if the commission determines that such racetrack was unable to conduct live racing on the required number of days due to factors beyond its control including, but not limited to, fire, earthquake, tornado, or other natural disaster. My questions are this, just to establish some intent because we do give broad authority to the commission to determine here, what is (a) a definition of a disaster; what is other, I guess, natural disasters? What is, you know, the factors beyond its control and what kind of things fall under that, that those parameters are set in that language?

SENATOR SCHMIT: Well, Senator, I'm sure that you could get 49 different definitions of disaster from the members of this body, but basically it means that Webster's definition of disaster which means anything that causes great harm, damage, calamity, misfortune, anything of that nature, anything that would fit the Webster definition of disaster.

SENATOR HALL: So in other words we're not...my point is, is that we're not talking about something as simple as inability, for example, because of construction, because of icy roads, because of snow, things like that, that are...would fall under the category of natural disaster, in my opinion, a blizzard, but are not something all that uncommon in May in Nebraska.

SENATOR SCHMIT: Normally, no. A blizzard, a snowstorm that'd close the roads would not be considered a disaster. I suppose the Racing Commission could, in a rare circumstance, make that determination if, in their discretion, that type of a storm was of disaster proportions and we have seen a few of those in the last 40 or 50 years, but normally, with the equipment we have today, and the facilities we have, an ordinary snowstorm or blizzard would not be considered a disaster.

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SENATOR HALL: Okay. Something like a track being unsafe, the inability or the unwillingness, say the jockeys go on strike, I mean, do these things fall under that category or how would they...?

SENATOR SCHMIT: No, I don't think that would be considered as a disaster. There have been times I wished they wouldn't have run a few times, but anyway...

SENATOR HALL: I've had the same problem, Senator Schmit.

SENATOR SCHMIT: But anyway, I think that if the jockeys decided, because a track wasn't safe, Senator, that they couldn't ride, that would not constitute a disaster, no.

SENATOR HALL: And my last point and probably the most important one is, is that could there be determination that because the handle wasn't great enough...

SPEAKER BARRETT: One minute.

SENATOR HALL: ...that they could, in essence, fall within that category at that time from where they chose not to operate?

SENATOR SCHMIT: No, it most certainly is not the intention of myself, I'm sure it's not the intention of any other member of this body nor this Legislature to allow the manager of a track, for example, to say well, the handle is not going to be profitable today, we just won't run. That would not qualify as a disaster.

SENATOR HALL: Thank you very much, Senator Schmit. The point in doing this is just to allow that we don't end up with someone operating basically a theater, that they need to be operating as a full-fledged racetrack, use at least 90 percent of the days that they are given by the commission, operate in that manner and then be able to use simulcasting as a way to supplement the handle. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. Further discussion on the motion to suspend the rules, Senator Nelson, followed by Senators Lynch and Schellpeper.

SENATOR NELSON: Mr. Speaker, members of the body, I do

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appreciate Senator Hall asking those questions, and I also appreciate Senator Schmit for bringing this bill to us today. I will have to tell you that my park, Fonner Park, they're a little more cautious. They may have the advertising drawn up, but I don't believe they've put it in the paper. But this is very important to these tracks and it's hard enough to try to compete with other tracks in the nation and to make some money on the racetracks and Fonner Park, as far as I am concerned, in our area, is a very valuable entity and I do hope that the body sees fit to pass this today, and thank you.

SPEAKER BARRETT: Senator Lynch.

SENATOR LYNCH: Question.

SPEAKER BARRETT: The question has been called. Do I see five hands? Thank you, I do. Shall debate cease? All in favor vote aye, opposed nay. Record, please.

CLERK: 28 ayes, 0 nays to cease debate, Mr. President.

SPEAKER BARRETT: Debate is ceased. Senator Schmit, anything further?

SENATOR SCHMIT: Only this, Mr. President, I want to again thank the body for allowing us to read the bill today and to allow us to participate in good and clean and organized agriculturally oriented gambling, and I know that there are those here who from time to time look askance at this sort of thing, but I would hope they would support the bill.

SPEAKER BARRETT: Thank you. And the question is, shall the rules be suspended to permit the Final Reading of LB 591E? Those in favor of that motion vote aye, opposed nay. Record, please.

CLERK: 40 ayes, 1 nays, Mr. President, on the adoption of the rule suspension.

SPEAKER BARRETT: Motion prevails, the rules are suspended. Mr. Clerk, would you read the bill.

CLERK: (Read LB 591 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure

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having been complied with, the question is, shall LB 591 with the emergency clause attached become law? Those in favor vote aye, opposed nay. Have you all voted? Record, please.

CLERK: (Record vote read. (See page 2023 of the Legislative Journal.) 42 ayes, 2 nays, 2 present and not voting, 3 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 591E passes. And let the record show that Senator Moore had guests in the north balcony. They are just leaving at the present time, 9 students and 2 sponsors from the seventh and eighth grades in Waco, from St. John's in Waco. Thank you, folks, for coming. We appreciate it. While the Legislature is in session and capable of transacting business, I propose to sign and I do sign LB 606, LB 681, LB 78, LB 646, and LB 262. (See page 2024 of the Legislative Journal.) The call is raised. I'm sorry, we have an A bill. The call is not raised, I'm sorry. Mr. Clerk.

CLERK: (Read LB 591A on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 591A with the emergency clause attached pass? All in favor vote aye, opposed nay. Have you all voted? Please record.

CLERK: (Record vote read. See page 2024 of the Legislative Journal.) 41 ayes, 2 nays, 3 present and not voting, 3 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 591AE passes. While the Legislature is in session and capable of transacting business, I propose to sign and I do sign, LB 591 and LB 591A, and the call is raised. Anything for the record, Mr. Clerk?

CLERK: I have amendments to be printed by Senator Coordsen to LB 814, Senator McFarland to LB 175, Senator Conway to LB 767. That's all that I have, Mr. President. (See pages 2025-27 of the Legislative Journal.)

SPEAKER BARRETT: Thank you. Proceeding then to General File, senator priority bills, LB 588.

CLERK: Mr. President, 588 was a bill introduced by Senator Chambers. (Title read.) The bill was introduced on January 18.

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646, 681

further on it? The call is raised.

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

PRESIDENT: Senator Labedz, please.

SENATOR LABEDZ: Withdraw.

PRESIDENT: Withdrawn.

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

PRESIDENT: Senator Ashford. It is withdrawn.

CLERK: Mr. President, Senator Hall...kill motion, Senator?

SENATOR HALL: Withdraw.

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

PRESIDENT: Okay, we're on the advancement of the bill. Senator Chambers.

SENATOR CHAMBERS: In view of the...Mr. Chairman and members of the Legislature, I will just make the motion, then see if it's necessary to discuss it further, but I move that 588 be advanced to E & R Initial.

PRESIDENT: You've heard the motion. Any discussion? If not, the question is the advancement of the bill. All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: 26 ayes, 8 nays, Mr. President, on the advancement of LB 588.

PRESIDENT: LB 588 is advanced. Do you have something for the record, Mr. Clerk?

CLERK: Mr. President, I do. Enrollment and Review reports LB 429 correctly engrossed.

Enrolling Clerk has presented to the Governor bills read on Final Reading today, Mr. President. (Re: LB 606, LB 681, LB 78, LB 646, LB 262, LB 591, LB 591A. See page 2028 of the

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681, 813
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amendment is adopted. Do you have anything else on it, Mr. Clerk?

CLERK: Mr. President, Senator Wesely would move to amend Senator Bernard-Stevens' amendment.

PRESIDENT: Senator Wesely, please.

SENATOR WESELY: Yeah, I move to recess till one-thirty.

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. You are recessed until one-thirty.

RECESS

PRESIDENT NICHOL PRESIDING

PRESIDENT: Record, Mr. Clerk, please.

ASSISTANT CLERK: There is a quorum present, Mr. President.

PRESIDENT: Do you have anything to read in, Mr. Clerk?

ASSISTANT CLERK: One item, Senator Coordsen would ask unanimous consent to print amendments to LB 182.

CLERK: Mr. President, I have a series of things, a communication from the Governor to the Clerk. (Re: LB 606, LB 681, LB 78, LB 646, LB 262, LB 591, LB 591A. See page 2089 of the Legislative Journal.)

A new study resolution by Senator Rod Johnson, LR 110. LR 111 by Senator Johnson. LR 112 by Senator Baack. LR 113 by Senator Barrett. LR 114 by Senator Hefner. LR 115 by Senator Baack. (Read brief explanation of each. See pages 2089-93 of the Legislative Journal.)

Mr. President, received a report from U S Ecology which is filed pursuant to rule and reg. Senator Wesely has amendments to LB 813, as does Senator Bernard-Stevens... Senator Bernard-Stevens has amendments to LB 813, Mr. President. (See pages 2093-94 of the Legislative Journal.)