

January 19, 1989

LB 94, 247, 570, 576, 683-808

as yet, please contact Joanne immediately. If you don't have the bill that you are expecting, please contact the Bill Drafters Office immediately. Mr. Clerk.

CLERK: Mr. President, for the record, I have received a reference report referring LBs 496-599 including resolutions 8-12, all of which are constitutional amendments.

Mr. President, your Committee on Banking, Commerce and Insurance to whom we referred LB 94 instructs me to report the same back to the Legislature with the recommendation that it be advanced to General File with amendments attached. (See pages 320-21 of the Legislative Journal.)

Mr. President, I have hearing notices from the Judiciary Committee signed by Senator Chizek as Chair, and a second hearing notice from Judiciary as well as a third hearing notice from Judiciary, all signed by Senator Chizek.

Mr. President, new bills. (Read LBs 683-726 by title for the first time. See pages 321-30 of the Legislative Journal.)

Mr. President, a request to add names, Senator Korshoj to LB 570, Senator Smith to LB 576, Senator Baack to 570 and Senator Barrett to LB 247.

SPEAKER BARRETT: Stand at ease.

EASE

SPEAKER BARRETT: More bills, Mr. Clerk.

ASSISTANT CLERK: Thank you, Mr. President. (Read LBs 727-776 by title for the first time. See pages 331-42 of the Legislative Journal.)

EASE

SPEAKER BARRETT: More bill introductions.

ASSISTANT CLERK: Thank you, Mr. President. (Read LBs 777-808 by title for the first time. See pages 343-50 of the Legislative Journal.)

CLERK: Mr. President, I have reports. Your Committee on

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LB 95, 140, 257, 280, 289, 311, 330
336, 387, 395, 438, 444, 478, 561
588, 603, 606, 643, 683, 705, 710
721, 736, 739, 744, 761, 762, 767
769, 780, 807

indefinitely postponed; LB 478, indefinitely postponed; LB 561, indefinitely postponed; LB 387, indefinitely postponed, all those signed by Senator Chizek as Chair of the Judiciary Committee. (See pages 1081-82 of the Legislative Journal. Journal page 1082 shows LB 721 as indefinitely postponed.)

Mr. President, a series of priority bill designations. Senator Hall would like to designate LB 762 as a committee priority. Senator Hartnett designates LB 95 and LB 444 as Urban Affairs priority bills. Senator Hartnett chooses LB 603 as his personal priority bill. LB 739 has been selected by Senator Hannibal; LB 606 by Senator Schimek; LB 761 and LB 289 by the Natural Resources Committee, and LB 807 by Senator Schmit, personally. LB 769 by Senator Labedz; LB 705 by Senator Ashford; LB 438 by Senator Wehrbein; LB 710 by Senator Scofield; LB 643 by Senator Bernard-Stevens; LB 588 by Senator Chambers; LB 739 by Senator Hannibal; LB 330 by Senator Pirsch; LB 767 by Senator Smith; LB 736 and LB 780 by General Affairs Committee; LB 395 by Senator Peterson. Senator Lamb selected Transportation Committee's LB 280 as a priority bill. LB 311 has been selected by Senator Landis as his personal priority bill; LB 683 by Senator Schellpeper.

Mr. President, I have a series of amendments to be printed. LB 744 by Senator Withem; LB 336 and LB 257, those by Senator Withem. (See pages 1083-88 of the Legislative Journal.)

I have an Attorney General's Opinion addressed to Senator Haberman regarding an issue raised by Senator Haberman. (See pages 1088-90 of the Legislative Journal.)

Mr. President, Natural Resources Committee will have an Executive Session at eleven-fifteen in the senate lounge, and the Banking Committee will have an Executive Session at eleven o'clock in the senate lounge. Banking at eleven o'clock, Natural Resources at eleven-fifteen. That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you, Mr. Clerk. Proceeding then to Select File, LB 140.

CLERK: Mr. President, 140 is on Select File. Mr. President, the bill has been considered on Select File. On March 2nd the Enrollment and Review amendments were adopted. There was an amendment to the bill by Senator Chizek that was adopted.

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LB 41, 49, 72, 89, 152, 157, 265
285, 287, 357, 357A, 373, 421, 431
431A, 480, 501, 513, 613, 619, 637
649, 758, 767, 776, 803

Retirement Systems report LB 41 to General File with amendments. That is signed by Senator Haberman. And LB 287 to General File with amendments, signed by Senator Haberman. Banking Committee reports LB 758 to General File with amendments; LB 776, General File with amendments; LB 480, indefinitely postponed; LB 613, indefinitely postponed, and LB 803 indefinitely postponed, those signed by Senator Landis as Chair. Transportation reports LB 72 to General File with amendments; LB 373, General File with amendments; LB 501, General File with amendments; LB 152, indefinitely postponed; LB 513, indefinitely postponed; LB 649, indefinitely postponed, those signed by Senator Lamb as Chair. Select File, E & R reports LB 49 and LB 431 to Select File and LB 431A to Select File. Enrollment and Review reports LB 157 correctly engrossed, LB 265, LB 357, LB 357A and LB 619 all correctly engrossed. General Affairs Committee reports LB 767 to General File with amendments. That is signed by Senator Smith. A series of amendments to be printed, Senator Lamb to LB 285, Senator Withem to LB 637, and Senator Smith to LB 421. (See pages 1182-93 of the Legislative Journal.) That is all that I have, Mr. President.

PRESIDENT: May I please introduce some guests of Senator Schmit, please, in the...I don't know which balcony they are in. There are 41 seventh graders and their teacher from Aquinas School in David City. Are you folks in either balcony? Would you please rise and be recognized? Thank you for visiting us today. Senator Smith, did you wish to speak on Section 10 of the amendment? Senator Lynch, did you wish to speak on that?

SENATOR LYNCH: Only to save time, mention again, as Senator Warner and I discussed earlier, our agreement on this portion of the Scott Moore amendment, so we would ask for your support for this amendment.

PRESIDENT: Senator Moore, did you wish to close on the Section 10 portion of your amendment?

SENATOR MOORE: No, just ask that it be adopted.

PRESIDENT: All right, the question is the adoption of the second half of the Moore amendment. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of Senator Moore's second amendment to the bill.

CLERK: Mr. President, I'm back to the committee amendments. If I may, right before that, Mr. President, I have a series of amendments to be printed from Senator Smith to LB 767. (See pages 1640-43 of the Legislative Journal.)

I'm now back to the committee amendments, Mr. President.

SPEAKER BARRETT: Further discussion on the committee amendments? Senator Abboud, followed by Senators Nelson, Hannibal and Hall.

SENATOR ABBODD: Mr. President, colleagues, I urge the body to reject the committee amendments. I think that the proposed rate reduction would be considerably less under the committee amendments. I think that Senator Wesely probably has a pretty good idea, if he wants to give back \$26 million I'll be happy to support that particular amendment. But at the rate these committee amendments are going, we're not going to be able to give back even the total of \$18 million. I don't think that that was the intent. I think that we want to give back a fair...give back to the taxpayer a considerable amount of money, more than what these committee amendments will allow. And I think giving back at least \$18 million is a step in the right direction. So I would urge the body to reject the committee amendments, let's give the taxpayers back more money. Thank you.

SPEAKER BARRETT: Senator Nelson.

SENATOR NELSON: Mr. Speaker, members of the body, I will be supporting the committee amendments, and I will tell you why. As far as the child care deduction I feel truly sorry for anyone that tries to raise a family today and needs that child care deduction. As far as the deduction for the elderly, that sounds good, good politics, but the very, very, very few people that qualify for that, and that is simply someone that is under 65 or disabled, 15 percent of their income, but to qualify for that then their social security and their other disability and income is taken off of that. So it sounds good, but I'm like Senator Schmit sometimes, does absolutely nothing except good politics. But the other portion of the bill I will not be supporting, and I'll tell you why. I have said I would work for increased state aid to education for...to recognize either property taxes, if you want it, or for maybe some adjustment in teachers salary, as

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LB 325, 767

LB 767. That's all that I have Mr. President. (See pages 1667-68 of the Legislative Journal.)

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

SENATOR SCHMIT: Mr. President and members, I rise on a motion, the motion being to divide the question.

SPEAKER BARRETT: At what point would you...

SENATOR SCHMIT: I would like to...I would like to say that I would be glad to accept all of Senator Hefner's amendments with the exception of Section 11. I would like to ask that Section 11 be deleted from the amendments and that we vote on it separately after we vote on the adoption of the previous amendments.

SPEAKER BARRETT: And you're looking at AM1349...

SENATOR SCHMIT: That is correct.

SPEAKER BARRETT: ...the amendment offered by Senator Hefner to the Standing Committee amendments.

SENATOR SCHMIT: That is correct.

SPEAKER BARRETT: You are asking that Section 11 be divided from the rest of the amendment. That would appear to be divisible to the Chair, Senator Schmit, still leaving a proposition for decision by the Legislature on the remainder, certainly. Which...would you prefer to address all sections except 11 first?

SENATOR SCHMIT: Yes, I would prefer that, Mr. President.

SPEAKER BARRETT: All right, so be it. We are then discussing everything except Section 11 in the amendment offered by Senator Hefner. Senator Schmit.

SENATOR SCHMIT: Mr. President and members, as I have indicated, I have no objection to all of the amendments that Senator Hefner has offered to the bill with the exception of Section 11. I believe that the committee did debate and discuss those issues very thoroughly and Senator Hefner has enough interest in those

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LB 603, 603A, 767

think, is also. So I think that it has been working and I think this kind of gives another little tool that they can use for the betterment of the children in the state. Some of these children kind of fall through the cracks but this, I think, will help maybe better support these types of children. So, with that, I would ask for the advancement of the bill.

SPEAKER BARRETT: You've heard the closing and the question is the advancement of LB 603 to E & R Initial. Those in favor vote aye, opposed nay. Have you all voted? Record, please.

ASSISTANT CLERK: 36 ayes, 0 nays on the motion to advance the bill, Mr. President.

SPEAKER BARRETT: LB 603 is advanced. To the A bill, Mr. Clerk.

ASSISTANT CLERK: Mr. President, LB 603A was introduced by Senator Hartnett. (Read title.)

SPEAKER BARRETT: Senator Hartnett.

SENATOR HARTNETT: Yeah, Mr. Speaker and members, be very brief on this fiscal note. I think I think I passed out a sheet, three-page sheet, and I think we...on the note, I think what's in the A bill is simply the low figures. There is three sets of figures, low, middle and high, and I think one of the things I want to point out in this is that their role will be very limited because there is only \$30,000 for a legal fee. And so, with that, I would ask for the advancement of the A bill which is 603A.

SPEAKER BARRETT: Any discussion? Any questions? If not, shall LB 603A be advanced? All in favor vote aye, opposed nay. Record, please.

ASSISTANT CLERK: 29 ayes, 0 nays on the motion to advance the A bill, Mr. President.

SPEAKER BARRETT: LB 603A is advanced. LB 767.

CLERK: Mr. President, LB 767 was a bill that was introduced by Senators Smith, Rod Johnson and Elmer. (Read title.) The bill was introduced on January 19, referred to the General Affairs Committee. The bill was advanced to General File. There are

committee amendments pending by the General Affairs Committee, Mr. President. (See page 1187 of the Legislative Journal.)

SPEAKER BARRETT: (Gavel) Senator Smith, Chair of the committee, please.

SENATOR SMITH: Thank you, Mr. Speaker, members of the body, LB 767 is a bill which originally intended to deal with interpretation of a local lottery as being one lottery, and then limiting the local lottery to a community to be only one lottery, one type of lottery. The increasing numbers of subdivisions that are having to resort to lotteries has brought us to this point in time where we feel that we need to do...to be very, very cautious about the regulation process and to look very seriously at the conditions that they can use in conducting local lotteries. They are doing this, of course, because of the loss of federal and state support which they have had in the past and the reliance they have to resort to which is property tax at this point in time, and so this gives them another alternative for the funding of services for the folks at the community level. Another purpose of the bill was to restrict the conduct of a lottery to the geographic boundaries of the subdivision itself unless agreed upon under the Interlocal Cooperation Act. These two things still remain in the original bill but the committee amendments have made a number of changes to the bill. We have taken what we considered to be the noncontroversial parts of three other bills that were heard in our committee, which if we had brought those bills to the floor, we would have really opened up some of the discussion that we had last year regarding pickle parlors, et cetera, and so what we have done is take what we consider to be the parts that are necessary, which are things that will be beneficial which in a year's time we have seen are some things that need to be changed and they will be offered to you in the form of a committee amendment. In addition to that, I do have some other amendments of my own that we will be offering.

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

CLERK: Mr. President, the first amendment to the committee amendments I have is offered by Senator Smith. Senator, I have AM1266 in front of me.

SPEAKER BARRETT: Senator Smith.

SENATOR SMITH: The members of the body have handouts which will define for them the amendment that we are talking about as we go, and they are also printed, as you said, Mr. Clerk. Thank you very much. AM1266 is really a technical amendment. It cleans up incorrect language and usage in the statutes from changes made in 1988 with LB 1232. You will remember that bill from last year. These correct the syntax and references and just harmonize the usage. I would ask for the adoption of this amendment.

SPEAKER BARRETT: Any discussion on the amendment to the committee amendments? Senator Schmit, your light is on. Do you care to discuss it? If not...Senator Schmit, your light is on. Do you care to discuss the amendment? Thank you. Senator Hartnett.

SENATOR HARTNETT: Mr. Speaker, members of the body, I think there is some other amendments that Senator Smith is going to offer later on that I am going to be opposed to but I think this is a good one. This is simply a technical amendment. I urge the body to support the amendment. Thank you.

SPEAKER BARRETT: Senator Hall. Thank you. The question is then the adoption of the Smith amendment to the committee amendments to LB 767. Those in favor vote aye, opposed nay. Record. Record.

CLERK: 27 ayes, 0 nays, Mr. President, on adoption of the amendment to the committee amendments.

SPEAKER BARRETT: The amendment is adopted.

CLERK: Mr. President, Senator Smith would move to amend the committee amendments. Senator, I have AM1267 in front of me. (See page 1640 of the Legislative Journal.)

SPEAKER BARRETT: Senator Smith.

SENATOR SMITH: Thank you, Mr. Speaker. AM1267 really deals with confidentiality provisions. This amendment attaches standard confidentiality provisions to the proprietary contents of the reports or records that are submitted by a licensed manufacturer-distributor to the Department of Revenue. Its purpose is to protect proprietary information that may be required in addition to the application. Secondly, the

amendment will do some more technical clarification. It clarifies that the prize for the last punch of a punchboard shall be determined by the manufacturer and not the operator. Secondly, it adds additional language specifying that no local government can conduct a lottery without first having been issued a license by the department. In one section, we felt that that was not as clear as it should have been written. And, finally, it harmonizes language used in Section 37 regarding scrape off or rub off tickets with the usage throughout the bill. I would ask the support of the body in the adoption of this amendment.

SPEAKER BARRETT: Thank you. Any discussion, Senators Schmit or Hall? Thank you. Shall the Smith amendment, AM1267, be adopted? Those in favor vote aye, opposed nay. Record.

CLERK: 23 ayes, 0 nays, Mr. President, on adoption of Senator Smith's amendment to the committee amendments.

SPEAKER BARRETT: The amendment is adopted.

CLERK: Senator, I now have your AM1274 found on page 1642 of the Journal.

SPEAKER BARRETT: Senator Smith.

SENATOR SMITH: Thank you, Mr. Speaker. AM1274 will change some operative dates, and we are going to have a variety of different times in parts of the bill because it has become such a compact bill with a lot of issues or a lot of different kind of provisions in it. We will have some different operative dates. It carries an October, the 1st, of 1989 operative date because that date is the beginning of the licensure year for the charitable gaming licenses. Tying the operative date of most of the changes to that date does make sense. Some of the changes, though, could be enacted sooner and they include the following: One, eliminating the two check requirement for pickle card commissions. Two, upping the pickle card commission and allowable expense percentages. And, three, the changes to the Department of Revenue Charitable Gaming Division statutes, which include a change in the reporting requirements from quarterly reports to annual reports, the authorization for the department to hire investigators with deputy sheriff status and the provision for sending 30 percent of the tax proceeds from the County and City Lottery Act to the Charitable Gaming Division

Cash Fund. And these changes will then all become operative on July, the 1st. All other changes involving tax rates, license fee changes, and product changes, such as upping the payout to 80 percent and allowing a definite prize for the last play on a punchboard will remain at the October, the 1st, 1989 date. I ask for your support for this amendment.

SPEAKER BARRETT: Thank you. Any discussion? Senator Schmit.

SENATOR SCHMIT: Mr. President, one question, Senator Smith, you say it includes upping the pickle card commission and allowable expense percentages. That language would have to be considered a little bit vague. Can you tell me what you mean by upping the percentages that are allowable?

SPEAKER BARRETT: Senator Schmit, Smith, excuse me.

SENATOR SMITH: Excuse me.

SPEAKER BARRETT: Go ahead.

SENATOR SMITH: This, we are dealing only with changes in the operative date of what we will be doing with that, but we will be dealing with increasing the amount that they will receive in the amendments to the bill, Senator Schmit, because we have seen, and we have agreement on the fact that the payout, for instance, the amount that they are paying out was not high enough, and, secondly, that those people that are doing the work in the lottery, itself, have not been paid as much as they should be paid in order to cover their expenses. And so we will be dealing with that in the amendment to the amendment, or excuse me, the committee amendments.

SENATOR SCHMIT: Are you telling me that you are going to increase the amount of money that the bar can earn by selling pickles?

SENATOR SMITH: We are increasing the maximum pickle card operator's commission from 28 percent to 30 percent of a definite profit.

SENATOR SCHMIT: That is a 50 percent increase.

SENATOR SMITH: Fifty percent?

SENATOR SCHMIT: Is that right?

SENATOR SMITH: No, from 28 to 30 percent.

SENATOR SCHMIT: Oh, 28 to 30 percent, I see. And what are the allowable expense percentages that you are changing?

SENATOR SMITH: Okay, it increases the allowable expense limitations from 4 percent of the definite profit to 6 percent of the definite profit. Within the 6 percent, a sales agent could receive a maximum of 4 percent of the definite profit as a salary or commission, and those are part of our committee amendments.

SENATOR SCHMIT: That is a 50 percent increase, right?

SENATOR SMITH: From 4 to 6 percent?

SENATOR SCHMIT: Yes.

SENATOR SMITH: I guess you would say that it is, yes.

SENATOR SCHMIT: That would be...okay. Well, I don't know what the total impact is on the operation except that Senator Morehead anguished over this last year. I'd just assume that you have given equal consideration and so I have had a lot of complaints from the local bar owners relative to those expenses, and so I assume they are fair and equitable. At this time, I will let them go. Thank you.

SENATOR SMITH: Yes, could I answer to that, Senator Schmit?

SENATOR SCHMIT: Surely.

SENATOR SMITH: We have also had a lot of concern expressed to us as members of the committee and that is the reason why we decided to up it. There were a lot of those people that were deciding not to continue to run this as a charitable kind of an operation for someone else because they weren't making anything out of it. It was a heck of a lot of headache for them and that was the purpose for increasing this, and we will have a handout, if you would like to see that, shortly.

SENATOR SCHMIT: I guess this must represent some sort of a reverse then by the agency because last year there was a

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definite indication that it would be beneficial to reduce the number of outlets, and apparently the law of supply and demand or the market demand, that you have to relax those a little bit to get more market participation, is that right?

SENATOR SMITH: That is absolutely right. There is, except for the fact that the proceeds have gone down.

SENATOR SCHMIT: And can you tell me how much the pickle proceeds have gone down this year as opposed to what they were last year?

SENATOR SMITH: I can't tell you that immediately but I will get that information for you, Senator Schmit.

SENATOR SCHMIT: Thank you, Senator.

SPEAKER BARRETT: Senator Pirsch.

SENATOR PIRSCH: Thank you. A question for Senator Smith.

SPEAKER BARRETT: Senator Smith.

SENATOR SMITH: Yes.

SENATOR PIRSCH: Senator Smith, this amendment doesn't actually change all those things?

SENATOR SMITH: No, this amendment changes the operative date.

SENATOR PIRSCH: The operative date is all that is contained in this amendment?

SENATOR SMITH: Yes, right, and I would discuss these other issues on the amendments.

SENATOR PIRSCH: Thank you.

SPEAKER BARRETT: Any other discussion on the amendment? If not, shall AM1274 be adopted? Those in favor vote aye, opposed nay. Record.

CLERK: 23 ayes, 0 nays, Mr. President, on adoption of Senator Smith's amendment to the committee amendments.

SPEAKER BARRETT: The amendment is adopted.

CLERK: Senator, I now have AM1275 in front of me found on page 1643.

SPEAKER BARRETT: Senator Smith.

SENATOR SMITH: Thank you, Mr. Speaker. Members of the body, this amendment makes one small change in the bill and it deals with the causes for license discipline, license revocation, cancellation, suspension, and so on. If a licensee refuses to allow the department or its authorized representative access to where activity requiring licensure is taking place expressly included as an authorized representative of the department or local law enforcement agencies, so this amendment would remove the word "local", so that denying any authorized law enforcement agency access could be grounds for license discipline. It is needed because the state patrol often assist in investigations. There is some concern that the modifier "local" may exclude the patrol and that was not the intent of the legislation. That is why we are asking to remove the word "local". I would ask for your adoption of this amendment.

SPEAKER BARRETT: Discussion, questions? Seeing none, those in favor of the adoption of the Smith amendment found on page 1643 vote aye, opposed nay. Record.

CLERK: 27 ayes, 0 nays, Mr. President, on the adoption of Senator Smith's amendment to the committee amendments.

SPEAKER BARRETT: The amendment is adopted.

CLERK: Mr. President, Senator Smith would move to amend the committee amendments. Senator, I have AM1276 in front of me. (See page 1643 of the Legislative Journal.)

SPEAKER BARRETT: Senator Smith.

SENATOR SMITH: (Mike off) but this is going to be more controversial than the others at least for some of us. In the committee, there was a vote by the body, we tried to do some kind of compromising among ourselves as far as our agreement, and Senator Hall is standing there shaking his head, I know he is going to have something to say about this, about putting the amendment that we did attach to the bill out, and we did

compromise, and I did say in committee I will vote for the 2 percent in exchange for some other things that I felt I was receiving on the bill, on the amendments, to put it out of committee and put on the floor. I will introduce an amendment which will increase again, it raises the state tax on local lotteries from 2 percent of gross proceeds to 3 percent of gross proceeds. Estimated statewide gross proceeds from local lotteries is \$5,079,000. At 2 percent, the state tax revenue is \$101,580. With an increase to 3 percent, that would give us a revenue rise to \$152,370. This is a compromise for me. The Department of Revenue will run a deficit if we don't do this, I believe, because for one thing we have lowered the tax on pickle cards. We have increased enforcement with more regulation as a result of more cities and counties conducting local lotteries, and we all know there are an increasing number that are requesting to get involved in this. Three, I guess simply stated, I believe and I have always said this up front, that I am not particularly in support of gambling or lotteries but we do have gambling, we do allow it, and so as far as I am concerned, we should do two things. We should regulate it very strongly and we should tax it and make some benefits from it for the state, and so that is quite honestly, quite openly, my reason for offering this amendment. I know there is going to be some discussion, but I would hope that in the end we will support this amendment.

SPEAKER BARRETT: Thank you. Discussion on the Smith amendment to the committee amendments, Senator Hall.

SENATOR HALL: Thank you, Mr. President and members. I do rise in opposition to this amendment but I would preface those comments first by saying that I would commend Senator Smith and her staff and other members of the General Affairs Committee who have done an outstanding job with regard to this issue because I think it is one that needed to be addressed this year because of the drastic changes that were made last year with regard to all the areas of the bingo, pickle and lottery act. So I do appreciate that and I do think that things are moving along extremely well. But the issue here is one of a 50 percent increase in the tax and I also believe, like Senator Smith does, that there is two reasons to have gambling. One is to raise money and the other, I guess, is to provide recreation or entertainment, and if you don't raise money through a gambling effort, then there is no reason to basically be in the business. The issue here, again, is an increase of 50 percent in the tax,

from two to 3 percent. The issue of paying for the increased enforcement that the Department of Revenue's Charitable Gaming Division will have to cover I think would be better addressed by increasing their 30 percent of what is raised in the 2 percent to 35 percent, and I intend to offer that amendment, not at this time, but on Select File, to this bill. I do believe that they will have increased costs because, as Senator Smith stated, there are a number of communities that are waiting for this legislation to pass so that they can get into the local lottery business, and that means two things. That means, one, that there will be more revenue raised, so with the 2 percent tax, even though we don't increase it if we fail to adopt this amendment, there will be more money coming into the state and that will bring increased revenues. If we increase the percentage of that income or revenue to the state that goes toward the Charitable Gaming Division to offset their expenses so that they do cash flow to 35 percent, we will be able to pay their bills because I asked the question in the committee hearings specifically to Mr. Hirsch with regard to what they projected to be an increase in the activity in this area, and they...his answer was that he could not directly answer that but there had been much activity, much investigation, and he did expect that there would probably be considerable increase, a considerable increase in the local lotteries that would take place. Which in turn means that there is going to be a heck of a lot more revenue, and it means that if we keep the tax at 2 percent that the state will receive and generate quite a bit more revenue from that. I think the proper way to go is to increase the portion of that revenue that comes to the state, that goes to the Charitable Gaming Division so that they do meet their costs. It is my understanding that presently, and again I asked the question of Mr. Hirsch, that they do not intend to increase their staff to any extent but use the same individuals who are currently in place. I think it is wise for the body to, at this time, leave the tax where it is. I will draft an amendment to increase the Charitable Gaming Division's portion on Select File to give them additional funds and let's see what the activity bears.

SPEAKER BARRETT: One minute.

SENATOR HALL: Let's see how they operate, what kind of a, I guess, call there is with regard to the increased lotteries at the local level, and see what the revenue is. If we need to increase the tax next year, let's come back and do that, but at

this point in time, I think a slight increase in the percentage that goes to the Gaming Division of the Department of Revenue would more than offset their costs in oversight and enforcement of these provisions. So at this point, I am going to oppose Senator Smith's amendment to the committee amendments, and they are well-intended, and I would entertain that again next year if I guess the need for that were proved, but I do intend to offer that other amendment, if this is not adopted, on Select File. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. Before recognizing Senator Schmit, the Chair is pleased to announce that Senator Abboud has some guests in our north balcony. We have 40 fourth graders from Seymour School in Omaha with their teacher. Would you people please stand and be recognized. Thank you. We are pleased that you can be with us. Senator Schmit.

SENATOR SCHMIT: Yes, Mr. President, I would like to ask Senator Smith some questions, but because of past experience, Senator Smith, I am going to hopefully have you answer on your own time, or I am not going to get a chance to speak. And so the questions I want to raise are these. First of all, the total income from all lotteries including pickles, lotteries, keno, the roulette wheels, et cetera, and all those other various lotteries, the total income that we have received from those the past year would have to stay level; and, number two, how does that compare with the income received by local government; and, number three, what kind of growth do you anticipate in that area; and, number four, if you were to separate the pickle business from the lottery business, how do they compare for income-producing both at local level and at the state level? After saying that, then I want to say that I oppose very much the increase from 2 percent to 3 percent, because given the percentage that are involved, it would mean in some instances, I am sure, that the state would receive more revenue than does the local government. Now the local government is taking the risk. The keno operations that are operating in Bellevue and Ralston, and to the best of my knowledge, in South Sioux City require that the city pay the prizes and the operator is guaranteed a percentage, and then in this instance, we would guarantee the state. It is possible for the cities under this formula to receive less than the state. Now it would be very easy for me to support this kind of an amendment because it means that those of us who come from small communities, and probably will not be able to run much of a lottery under this system, would be able

to share on the statewide benefits. I am all in favor of the state having a lottery business and running it and operating it, but I do not think it is fair or equitable for the state to not just piggyback on the local lottery but to absorb most of the income. If the state wants to take the responsibility of running it, operating it, as other states have done, then they ought to have the courage and the fortitude to do so openly, but not let the local government, the local mayor and the council, take the heat for setting up a lottery, whatever the heat there is, and then siphon off the bulk of the profits. I think, number two, Senator Hall has a good suggestion. I think that ought to be the way you go, if, in fact, they need more money for supervision. I think that there is sufficient money out there to supervise the activity at the present time, but I certainly would oppose very much a 50 percent increase in revenues to the state. I don't know how we can justify that. You remember, it comes from the city's portion. It is coming from the city or the county's portion. I, very frankly, like very much a county lottery because I believe all their people live within the confines of county and all citizens then benefit because most of them participate. But so long as you are going to have a city lottery, certainly, the entity, the subdivision of government, which establishes that lottery and takes the responsibility for its management, has the principal responsibility for maintaining the integrity of that system, ought to then be entitled to a little bit larger portion than the state. Now if the state can demonstrate, and they have not done that to my knowledge, that they need more money or that they are spending more money to police those entities, then I would be glad to listen to that and to accept some sort of other split, but I don't believe it ought to be a 50-50 split, and I certainly don't think it ought to be a 60-40 split, and given my limited knowledge of the activity up there, at 3 percent for the state, you would leave less than that, maybe as little as 2 percent or maybe even less, for the city and I don't think that is fair. I don't think any of you who come from those areas where they operate the lotteries will think it is fair, and I think...

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: ...all of us ought to think about the fact that if a city or a county or a village in our area were to go to the trouble of establishing a lottery, that we should not have the state siphon off the largest portion of the proceeds. We get

pretty greedy in state government but we had ought not to be that greedy. So, therefore, I oppose the amendment.

SPEAKER BARRETT: Senator Hartnett, followed by Senator Smith.

SENATOR HARTNETT: Mr. Speaker, members of the body, I, also, oppose this amendment of Senator Smith, and I think I would also like to do what Senator Hall, because I have served on the Miscellaneous Subjects Committee and on the General Affairs Committee since I have come down here and we have dealt with these issues. And I want to congratulate Roger Hirsch and members of the Department of Revenue for their cooperation in bringing us a bill that is reasonable, I think, and it still allows the lottery to operate within Nebraska with some control. But I guess in my community, I am one of the communities that have had the lottery. It was voted by the people as it is in the Constitution, a vote of the people. It has been well run and that we simply use the money, the money in my community, we are a city of 35,000 people, we use, as it is in the state law, it has to be used for community betterment. What does the City of Bellevue use their money for? They use it to buy library books. We have a volunteer fire department. They use it to help the fire department. And so this is what they use the money for. It simply helps...we have given...we have talked about giving, the other day we advanced a bill that would help people in certain segments with their income tax. We did something with the schools, with Senator Moore's 611, and Senator Lamb with LB 84, but this is simply something that we can help the cities that have a lottery system going now to keep and use the money for community betterment. In fact, the figures I have from one state...in my city that the state actually got, fiscal 1988, got \$192,000 and the city only \$176,000. So I think, I also agree with Senator Hall, if the state needs more money for enforcement, they simply can raise that percentage from 30 percent up to 50 percent or 35 percent, like he is saying, for enforcement. So we are not trying to penalize them and we simply have to look because there are more communities going in but I think there has not been much oversight by the state as far as the lottery operation in my city. In fact, I think it was just this past year that we had someone from the Department of Revenue look at it. They simply have been taking the money. So I really think that the state's share at 2 percent is a reasonable, fair amount, and if it is not enough money, we have some other ways. I would also support the position of Senator Hall, to come back next year with

something. So with that, I oppose Senator Smith, given in good faith.

SPEAKER BARRETT: (Gavel) The house is not in order. Senator Smith.

SENATOR SMITH: Thank you, Mr. Speaker. Thank you for your concern, Senator Hartnett, and I guess I could ask a question of the body, without even having to answer it, they can think about it in their own minds, and that is Senator Hartnett was making a good case about how the city uses those dollars for all these grand purposes in the community, which I don't doubt they are good things, but on the other hand, you could ask yourself that same question, what does the state use it for? The same kinds of things only it comes from the state level and those are things...and in addition to that, the need to regulate gambling in Nebraska. If we are going to have it, we have got to regulate it. We are creating a license, a new license structure. It is going to take more regulation. It is going to take more cost, more time, as far as the state is concerned, in order to do this. I can answer your questions, I believe, correctly, Senator Schmit. Are you on the telephone right now, Senator Schmit? Okay, you asked the total income from all lotteries. These were the figures that were given to me, \$4,202,852 last year; income received by local government was \$250,000. Now you have to keep in mind that they had to pay out at least 65 percent but many of them paid out more than that. So that is the reason this number is lower than it would have otherwise have been. The state's share of that was \$101,580. So, have I answered all the questions that you asked? Okay, all right, anyway, I am saying that I still stick by what I had said before. We have to regulate it. It is there. We are approving the fact that a community is going to use it but it is going to have to be very strictly regulated because we don't want to see some illegal things going on, we don't want to have some negative kinds of an impact going on in our communities because of it, and I am just saying I stick with what I said. Regulate it and tax it and I am up front about that.

SPEAKER BARRETT: Senator Hall, further discussion, followed by Senators Hartnett and Schmit.

SENATOR HALL: Thank you, Mr. President. Again, I rise in opposition to Senator Smith's amendment but I completely agree with much of what she says. I just think that there is a better

way to do it in that with the increase of the percentage that goes to the Charitable Gaming Division that there will be adequate funds to cover the cost of enforcement and regulation. The handout that we have on our desks or, at least, I thought it was a handout, I just happen to have one here, that shows what the 35 percent cash fund effect will do is basically it shows that there would be approximately \$38,000 shortfall with that increase. Those figures are extremely conservative in terms of the amount that would be raised. I don't think it allows for any increased activity in the local lottery areas, and I do know that if you will look at the next amendment, that amendment I think precipitates what will happen with regard to activity as it will blossom with the passage of this bill. I don't think there is any doubt in any one's mind that there will be more communities that get into the lottery business which means additional funds will be raised, and to increase the percentage that goes toward enforcement and regulation is a good idea, but to increase the tax to do that I don't think is, and I think, basically, what we would be looking at here is a 35 percent cost effective percentage that covers cost, and does nothing more than that, and that is really what we should do. The lotteries are really run and operated at the local levels, whether it be the city or the county level. The funds should be retained there but there ought to be adequate funding that covers enforcement and regulation, and I think with the amendment I will offer to the bill, we will be able to do that. I appreciate Senator Smith's efforts on this. I think all of her arguments are very accurate and I would hope that she would support my amendment. The 50 percent increase in the tax I just at this time cannot support but I do want to try to achieve the same end that she seeks. With that, I do hope the body will oppose this amendment. Thank you, Mr. President.

SPEAKER BARRETT: Senator Hartnett.

SENATOR HARTNETT: What do I want to say? Mr. Speaker, members of the body, I think that there are means to regulate, and like Senator Hall laid it out in his amendment coming, we can increase the part of the 2 percent higher so that the state can do it. And I hope the state does, Senator Smith, because I have lottery in my community, do a better job than regulating it than they have in the past, and maybe they are, but I think the first time, and not anything against the director because I think Roger Hirsch is doing a good job in that area with the lottery, but I think the first time he was in my community and we have

had the lottery going for a couple of years, to look at it is last summer when they were looking at...you know, so I think that hopefully that there will be a better job, and I think we can do it without taking money away from the communities. We have done things for the taxpayer. We have done things for the schools or are attempting to do things for the schools, and I think this is a way to help cities that have the local lottery for the community betterment. With that, I ask the body to oppose Senator Smith's amendment.

SPEAKER BARRETT: Senator Schmit, followed by Senator Smith.

SENATOR SCHMIT: Mr. President and members, I want to thank Senator Smith for her explanation. I just want to call attention to something else which I am sure the committee is aware of and Senator Smith is aware of, but which many of us are probably not aware of, and that is that there are different percentages that are earned by the various subdivisions based upon the different kinds of activity. I just checked and I believe last month the City of Ralston, for example, collected a gross of around 132,000. The state collected around 11,000. Now there are sometimes those numbers might be somewhat different based upon payouts and other activity, might also be a different type of game that would change those percentages considerably, but I think you can see that if Ralston paid 11,000 last year or last month, in one month alone, it doesn't count Bellevue, it doesn't count South Sioux City, that the income to the state can be considerably greater than the \$101,000 for next year than it was last year. So I know that Senator Smith is trying to make it so that the state doesn't lose any money on it, and we shouldn't, we should not lose money on the operation, but so long as we really do not have a state operated lottery, then I don't think the state should try to benefit from it. I am not just procity 100 percent, I am going to oppose, but I am going to support, I think, another amendment that Senator Smith has here which she is neutral on but, nonetheless, I think that at this time rather than to have a 50 percent increase in the tax that is paid to the state, we ought to give the cities the benefit of the doubt, keeping a close eye on them as the committee has done, as they are doing presently, and if they need more money another year, can demonstrate that they need more money for enforcement purposes, I will be the first person to assist in their securing that kind of funds. But at this time, Senator Smith, I regretfully still oppose your amendment.

SPEAKER BARRETT: Senator Smith.

SENATOR SMITH: Are there any other lights on, Mr. Speaker?

SPEAKER BARRETT: One light.

SENATOR SMITH: I will call the question.

SPEAKER BARRETT: Five hands, please. I do. Shall debate cease? Those in favor vote aye, opposed nay. Record.

ASSISTANT CLERK: 25 ayes, 0 nays to cease debate.

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

SENATOR SMITH: Thank you, Mr. Speaker. The reason I asked if there were any other lights on was because I think we just run into a little round-robin here, the same people talking over and over, and there was a consensus among us that it was time to say this was enough, let's go on and have an up and down vote on it because I don't think we are going to get any of us to change. We have a difference of philosophy and my philosophy is, Senator Hall is saying, and I really don't see that much difference, basically, in the end of what he is talking about, he is saying on the one hand take 35 percent of 2 percent tax and give that to the Charitable Gaming Commission. I am saying, let's raise the tax to 3 percent and give 30 percent of that to the Gaming Commission to make sure that they have enough to regulate the lottery, and I have been very up front about the fact that not only do I want to make sure that the Charitable Gaming Commission has enough money to run their operation, but I believe very strongly that we should make some money for the state out of this. I would like to have the state make money on a state authorized and regulated lottery. It is that simple. It is that clear. I am not hiding anything in the fact that I want to see some more proceeds go to the state, and so for no other reason than that, I am just simply asking you people to support the 3 percent rather than the 2 percent tax to the state. I am going to reiterate that we did lower...we are going to be lowering the tax on pickle cards. We are going to be increasing enforcement with more regulation as a result of more cities and counties conducting local lotteries. And I will close with my comment and say that, Senator Hartnett, for your benefit, we did not have the state involved, it was not

regulated, state regulated at that point in time, but I will make a special request of Roger Hirsch for you, and I will ask him if he will come out to your community at least once a week to make sure that you are running that lottery the way it is supposed to be run, if you would like to have me do that. I would ask for the adoption of the amendment.

SPEAKER BARRETT: Thank you. The question is the adoption of the Smith amendment found in AML276, and those in favor vote aye, opposed nay. Have you all voted? On the amendment to the committee amendments, simple majority. Senator Smith.

SENATOR SMITH: Mr. Speaker, can you tell me how many members in the body are excused? If I could read that far, I could.

SPEAKER BARRETT: Six, six members excused, Senator Smith.

SENATOR SMITH: Okay, I guess what I am going to have to do is ask for a roll call vote. All right, I will have a call of the house, please.

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

ASSISTANT CLERK: 17 ayes, 2 nays to go under call, Mr. President.

SPEAKER BARRETT: The house is under call. Members will please return to your seats and record your presence. Those unauthorized personnel, please leave the floor. Members outside the Chamber, please return and record your presence. Roll call vote has been requested on the adoption of the amendment. Senator Wehrbein, please. Senator Robak, Senator Weihsing. Senator Labedz, Senator Pirsch. Senator Hefner, Senator Goodrich, the house is under call. Senators Goodrich, Lamb, and McFarland, the house is under call. Senator Lamb, the house is under call. Members, return to your seats for a roll call vote. Thank you. Proceed with the roll call on the adoption of the Smith amendment.

ASSISTANT CLERK: (Roll call vote taken. See page 1678 of the Legislative Journal.) The vote is 18 ayes, 21 nays, Mr. President.

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

ASSISTANT CLERK: Mr. President, the next amendment to the committee amendments is offered by Senator Smith. (See page 1678 of the Legislative Journal.)

SPEAKER BARRETT: Senator Smith.

SENATOR SMITH: (Mike off) committee amendments.

SPEAKER BARRETT: I am sorry, Senator Loran Schmit, your amendment.

SENATOR SCHMIT: Mr. President and members, this amendment is an amendment, very frankly, that applies at the present time to only one single business in Bellevue, Nebraska. It applies to the...might call it the Crown Court amendment I guess. The Crown Court operates a form of lottery in Bellevue, Nebraska, and the Crown Court is a motel and a lounge and is a very successful business and has been licensed by the City of Bellevue, as I understand, to conduct this type of lottery. It would seem to me that it is very unusual that we legislate specifically against a certain individual, and I think that is what we are doing in this instance. The individual who owns this business is a very reputable businessman. He is active in banking. He is active in other activities in the City of Bellevue, and the City of Bellevue has licensed that operation to conduct this type of lottery. For some reason, unknown to me, perhaps known to the committee members and they will have a chance to explain that, it has been determined that the type of lottery presently allowed by law should be disallowed. Now I am a little sensitive about that sort of activity. I am a little sensitive about specific type of legislation which zeroes in on one individual and says this one individual cannot conduct this type of lottery, whereas, we will allow another type of lottery, specifically, in this instance, keno to perform. The state made a decision some time ago relative to various types of lottery activity and has been whittling away at it to a certain extent ever since. But to the extent that as far as I can tell the operation of the Crown Court is being operated legally, legitimately, it is no more, no less gambling than the keno operations. You can lose your money in both operations, you can win a little in both operations. I do not see where we can justify saying that in one community there shall be only a certain type of lottery, and in this instance, if the city decides there shall be only one operator, that we shall,

therefore, put another individual out of business. Now someone is going to say, well, we allowed him to continue his operation for the extent of his contract, the city may not renew that when that contract expires anyway. I would say at least that is an improvement over past actions of this body when contracts have been abridged, but the point I want to make is this. I don't think that probably five people in this body have seen Mr. Clatterbuck's operation, yet we are, with this amendment, going to put him out of business. I don't think that is right. He has expended a lot of money doing business. It has an impact upon his business. It has an impact upon his customers. It has an impact upon the people who will come to his motel and to his lounge if he is not allowed to operate, and I don't think it is right. I think we ought to consider that. I would hope that this body, before you decide you are going to put a person out of business, that you will learn, you take the time and the trouble to learn about the investment the individual has made, about the licensure he has achieved, the status within the community, and then vote based upon that information rather than upon someone's likes or personal dislikes, rather than upon the point of view perhaps within the agency. For example, last year on this floor under all sorts of pressure, this body adopted language relative to pickles which did, in fact, put an entire group of people out of the pickle business. I don't know whether it was good or bad. Apparently after a year's discussion and revelation, the department decided they were too strict. So this year they have come forward and said, well, let's put them back in. We have got to relax the regulations a little bit. We have got to up the percentages for those individuals to make it attractive enough. Last year, the basis was we want to discourage gambling, gambling is bad, destroys the moral fiber of the state and of individuals, therefore, we ought to do all that we can to discourage it. All of a sudden as revenues decline, we took a different tack. We said, maybe it isn't so bad, maybe it ought to be encouraged a little bit. We have got to up the handle a little bit, up the percentage a little bit. So now we are going to go back and try to encourage some of those individuals who went out of business last year to go back into business. The question I want to ask you at this time, is it this body's responsibility to legislate against a single individual business? I don't think so. Now we can say by the definition we are legislating against an entire entity, we have the right, and we do, we have the responsibility, and we do, we have the obligation, and we do, to define the parameters of gambling. But I ask you when those parameters thus defined

only serve to put one individual business out of business, who are we kidding? Are we kidding ourselves, or are we kidding the department, or are they kidding us? The question I want to ask you is this, other than committee members, is there anyone on the floor who understood the amendment as was drafted or would have understood it? I don't think so. No reason for you to unless you were familiar with that person's business. I don't know how much money has been invested. I do not know if that individual will have the opportunity to recover that investment by the termination of his contract or not. He is a businessman. He understands the rules of the game, and he will play it that way. I have not discussed it with him personally. I have not seen the gentleman for a long period of time, but I just know whereof I speak, and I think it is wrong. I think it is wrong. Had he not conducted himself properly, had he been guilty of any kind of a violation, had he shown an arrogance or a contempt for the rules and regulations, had he abused the state, had he been in any way abusive of the privilege, different story. There are provisions then to take him out of business. But let us not by legislation take out a business, a specific individual, at this time just because someone in the department has decided we don't like that kind of an activity. The department, to my knowledge, cannot say, they cannot monitor it, they cannot regulate it, they cannot control it. To my knowledge, they have not shown evidence that they have not received a totally accurate accounting of all the funds. Then what is the difference? What is the difference if you bet \$100 at the Crown Court or \$100 at some other place, whether you lose it or win it, you understand the odds? I think that we ought to take a look at this and you ought to adopt my amendment. I see no reason, and I want you to know, I see absolutely no reason to specifically by a legislative act take an individual out of business simply because someone in the department is adamantly opposed to that type of gambling or, perhaps, maybe, maybe to that individual. I ask you to support my amendment.

SPEAKER BARRETT: Senator Korshoj, on the amendment.

SENATOR KORSHOJ: Mr. Speaker and members, Senator Schmit, why don't you take my time and explain to me and Senator Crosby what you just said. I mean I am serious. I am totally in the dark. What are we doing?

SPEAKER BARRETT: Senator Schmit.

SENATOR SCHMIT: Mr. President, if you will open your bill book...just a moment, I will try and find it. I asked the counsel for the amendment, and what I am saying is this, I am looking it up, is that the language that has been stricken, and, pardon me, Eric, will you tell me what section that is in? Thank you, Eric. AM0811, page 24, we define what is legal gambling under the lottery law, and by striking certain language, we have outlawed the equipment which the Crown Court uses to conduct a lottery, and we have said, specifically, that we allow these types of opportunities; winning opportunities represented by tickets. Winners are solely determined by one of the following three methods: Random drawing of tickets, et cetera, et cetera, keno, and the correct matching of certain numbers. Now I think that if I were innovative enough I could probably take the Crown Court's equipment and meld it into this situation, but that is not going to happen. A businessman is not made that way. He understands the rules, he understands what is being done to him, and he is not going to try to circumvent it. But what we are doing here is we are taking out of business one particular business. I don't see any reason for that. We are not saying that a certain city can't conduct a lottery. We are saying that this particular individual who operated within the law, he has set up his business within the law, and I might just add that he was in the business once before with other equipment which we had also outlawed. You know, after awhile, a guy becomes a little paranoid of this kind of an operation. This will be the second time the gentleman will be declared out of order and I don't think it is right. I think if there is something wrong with it, that is something you can talk about, but to my knowledge, there has been no evidence, there had been no testimony, Senator Korshoj, that indicates that the type of lottery conducted at the Crown Court is any higher risk, lower risk, higher pay-back, lower pay-back, than any other type of lottery operation in Bellevue or any other community. And so I would ask you, again, and Senator Smith can probably explain it better than I can. I am sure she has a point of view, it is probably counter to mine, but I just...I think there comes a time when equity ought to be considered, and I think in the terms of equity, due process, I think we are making a mistake. It is not anything to me. It makes no difference to me, personally, except that I think that in this body from time to time, we ought to look at equity. Check page 24 of AM0811 and Section 22. You will see what I am talking about.

SENATOR KORSHOJ: Thank you.

SPEAKER BARRETT: Senator Smith, followed by Senators Wehrbein and Elmer.

SENATOR SMITH: Thank you, Mr. Speaker, members of the body, I hope that you are aware of what this little simple amendment is going to do. This is definitely not a technical amendment. It is not for one business in Bellevue. What it would do is return us to the position we were in before we introduced this piece of legislation. The intent of the legislation was to finally define what we mean by lottery or lotteries and say that we will allow one type of lottery in a community. The purpose of it also is to prevent the kinds of things that could occur over time with the increasing numbers of communities getting involved with lottery. We could end up with, in fact, casino types of operations in Nebraska. Now, if that is what you want, then you vote for this amendment. But look on page 24, don't believe just me, look on page 24 of your bill, see where he reinstates the former language, and where he strikes all the new language that we put in the bill, on pages 24 and 25. We grandfathered in those contracts that are currently in operation in the bill, and you will find that on page 26. We are allowing, for instance, the contract that is running presently in Bellevue with a keno operation to continue through the time of its contract. We are not trying to stop that. We are not interrupting that contract. What we are doing is allowing that to continue by grandfathering it in. Senator Schmit is offering you this amendment under the pretext that it is for a business in Bell...Bellwood that he is protecting. Bellevue or Bellwood? Bellevue. Bellevue is grandfathered in till the end of its contract, and what we are doing then is we are all on a level playing field. Each community can have the type of...if we ever get to the committee amendments, we will tell you what we have come up with as far as a lottery is concerned, and they can combine with interlocal agreements to expand that lottery from one community into another. We don't want to see this become Nebraska wide open to casino type of gambling operations, and that is the bottom line, and the purpose for the bill. Senator Schmit's amendment will put us right back to that position where that is able to occur in Nebraska. I would ask, very strongly ask, that you do not support this amendment. If you do, what you have done is basically taken the purpose of the bill away.

SPEAKER BARRETT: Senator Wehrbein.

SENATOR WEHRBEIN: Mr. Speaker, members, I, too, would strongly oppose this amendment. It opens it up, as I interpret it, to private contractors, would vastly expand the access to this type of "recreation," if you will, in Nebraska, which I think if you look at the enforcement problems that will be greatly expanded with this type is another consideration, and I would assume that based on that type of expansion, we would have an increasing cost again just for enforcement, auditing, and so forth. So it appears to me to serve no reason to expand this under this basis. That if we are going to have this type of activity, it ought to continue under the community as we are now headed and I would strongly oppose this amendment.

SPEAKER BARRETT: Thank you. Senator Smith, followed by Senator Korshoj.

SENATOR SMITH: Thank you, Mr. Speaker. I am not going to speak for a long time at this point but I would just like to have everyone know that I am going to ask Senator Schmit a question here. Senator Schmit, would you respond to a question, please?

SENATOR SCHMIT: Yes, of course, I would be glad to.

SENATOR SMITH: All right, so if we have the three conditions for what the definition of a lottery is, the chance, the payment to participate, and then to receive a prize, this is the definition of what a lottery would be, right?

SENATOR SCHMIT: Well, Senator, I have only read the amendment this morning, and I only became aware of the fact that Mr. Clatterbuck couldn't operate his business this morning when I took a look at it, and so I am not familiar with what you really allow.

SENATOR SMITH: Is there anyone else in here that might be able to respond to this? The reason I am asking this question is, folks, if you listen to the three conditions, chance, pay to participate, receive a prize, those are the three conditions of a lottery. Then does that include, and you are saying, contain such games as blackjack, any of those kinds of things, which are casino type games? This is exactly what it would do, this is what it would allow, and this is what...the purpose of the bill is to be able to prohibit that from occurring in Nebraska. We do not want casino type games in Nebraska. We don't want the

development of the casinos in Nebraska. I strongly urge you to reject this amendment.

SPEAKER BARRETT: Senator Korshoj.

SENATOR KORSHOJ: Question.

SPEAKER BARRETT: Thank you. There are no other lights on, appreciate it. On closing, on the amendment, Senator Schmit.

SENATOR SCHMIT: Mr. President and members, I respect Senator Smith's decision. She says we don't want casino type gambling in Nebraska, and I asked her what in the world was she okaying keno for? What is keno? Is that a parlor game? Not by my definition. You have been to Vegas, Jacky, I am sure. You were in Reno last summer. You saw the keno operation. It is a major operation. You don't play keno in the church parlor, you play it in the gambling hall. Now you can call one casino type gambling and the other something else, but I don't know what the difference is. I know one thing, you can calculate the odds on the equipment that Mr. Clatterbuck has a lot closer than you can on keno. And I can tell you from experience, keno is a volatile game. It is a very random selective game, and if you go to Ralston will tell you when they had a \$25,000 winner in the first two weeks, that is something which you really don't know what is going to happen. When you say you don't want a casino type operation, that is your privilege, but then you had better outlaw keno, and you had better outlaw bingo, because they are both played in casinos, and I don't see the difference. What you have done by the description of what is going to be a lottery is you have very definitely tiptoed around the language which will outlaw a certain type of specific operation and one particular institution in the State of Nebraska. Now you can call it anything you want to, and you can defend it any way you want to, and it isn't going to make a bit of difference to me, but I think that when you stand on this floor and say we think this is good and something else is bad, you had better be able to back it up with information. You had better be able to show some definitions, show why one is good and why the other is bad. I, obviously, think that you are making a mistake but that is not binding upon anyone else in this body. What I want to make clear to the body here today is that the amendment as drafted today specifically puts out of business at the termination of one person's contract a certain type of operation in Bellevue, Nebraska. Now if you think that by doing this you are going to

stop the proliferation of the game, you are wrong. What it does do is allows the city to say, okay, we are going to give one license for one enterprise and that is it. We are not going to do anything else. I think that if you try to describe gambling in the way you are doing it here, then the least you ought to do, the least you ought to do is to grandfather in the existing entity ad infinitum, as long as he wants to be in business. I think that would be the least you could do, Senator Smith. If he got his...it is kind of like the people that got in the gate on 775, once you have got your nose under the gate, you ought to be allowed to keep it under the gate. I will tell you what I am going to do, Senator Smith. I will make you a sporting deal. I am going to offer to withdraw...in fact, I will withdraw this amendment this time, and I will offer an amendment on Select File that let's the existing contract continue, and then let him fight it out with the city if they want to relicense him at the end of that contract or not. But I think it is wrong for this Legislature to engage in that kind of selective enforcement of what we would like to euphemistically call our gambling laws of the State of Nebraska. So with that, Mr. President, I ask permission to withdraw the amendment.

SPEAKER BARRETT: Thank you. It is withdrawn. Anything further, Mr. Clerk?

CLERK: Mr. President, Senator Hall would move to amend the committee amendments.

SPEAKER BARRETT: Senator Hall.

SENATOR HALL: Thank you, Mr. President and members. This is the amendment that I spoke of earlier on Senator Smith's amendment to increase the tax. I decided to offer it at this time so that there was no question with regard to where I stood on the issue. This would take the percentage of what is currently received by the Charitable Gaming Division of the Department of Revenue and raise it from 30 percent of the tax that is received to 35, so that it would cover their cost with regard to regulation and enforcement of the lottery. I think that this is the proper way to go. It does allow, even with the conservative, and very conservative, estimates with regard to revenue, those estimates are based on the fact that there would be no additional increase or activity in the local lottery area, that with an increase to 35 percent, they, basically, would have a \$38,000 shortfall. I can guarantee you that I would be

willing to wager that the activity will probably more than double and their costs will be more than covered with regard to the issue of enforcement and regulation with this amendment. So I would urge the body to adopt this amendment to the committee amendment that takes their portion from 30 and increases it to 35, so that they can, basically, cover their costs. Thank you, Mr. President.

SPEAKER BARRETT: Thank you. Before recognizing Senator Smith, I am pleased to announce that Senator Byars from the 30th Legislative District has some guests in the north balcony, fourth grade students, 28 of them, with their teachers. They are from Diller, Nebraska, and you will notice the children are dressed in their pioneer costumes. Will you folks please stand and be welcomed. Thank you for visiting with us. We are glad to have you. Discussion, Senator Smith, followed by Senator Hartnett.

SENATOR SMITH: Thank you, Mr. Speaker. Seeing those children, those school children in their costumes, their pioneer costumes, reminds me of Nebraska's Centennial, when I was a school teacher, so it takes me back some years ago. I would reluctantly at this point in time support Senator Hall's amendment since my amendment did fail. I am not saying I am not going to be back again folks. I might try it again on Select, but at this point in time since my amendment for the 3 percent increase or tax to the 3 percent failed, I do want to make sure that the Gaming Commission does have enough money so that they can operate and do all of the things they need to do in regulation. So I will support the Hall amendment. Thank you.

SPEAKER BARRETT: Senator Hartnett.

SENATOR HARTNETT: Mr. Speaker, members of the body, I would also rise to support Senator Hall's amendment. I think that I was also going to offer an amendment to raise it up to 50 percent, but I think by talking that this seems to be...at this time seems to be enough to do the operation and so forth as far as the Department of Revenue and I, hopefully...in our earlier discussion with Senator Schmit, I hope that we do get, that they do come out and regulate the operation and so forth. So with that, I rise and hope the body supports Senator Hall's amendment.

SPEAKER BARRETT: Thank you. Any closing, Senator Hall?

SENATOR HALL: I would just move adoption of the amendment. Thank you, Mr. President.

SPEAKER BARRETT: Shall Senator Hall's amendment to the committee amendments be adopted? Those in favor vote aye, opposed nay. Record.

CLERK: 21 ayes, 0 nays, Mr. President, on adoption of Senator Hall's amendment to the committee amendments

SPEAKER BARRETT: The amendment is adopted.

CLERK: I have nothing further to the committee amendments, Mr. President.

SPEAKER BARRETT: Thank you. To the committee amendments, Senator Smith.

SENATOR SMITH: Thank you, Mr. Speaker. Members of the body, we are finally at the point in time where we are going to be talking about the committee amendments which are very extensive. You have a handout on your desk which gives you a summary of the amendments to the bill, and if you want to know what is in the amendment to the bill, this is a good thing for you to look at while I am going along and explaining each thing that we have amended into the bill. You remember that I told you, the original intent of LB 767 was to interpret local lotteries as being defined as limited to one lottery or the conduct of one type of lottery in a community, and increasing, as I told you, the increasing number of subdivisions that are having to resort to conducting lotteries as a means of funding their local costs of maintaining and providing the services, have driven them to do these kinds of things as their other support has decreased. Secondly, that it will restrict the conduct of a lottery to the geographic boundaries of the subdivision unless agreed upon under the Interlocal Cooperation Act. Now these remain as a part of the bill, itself. Okay, now we get to the amendments. This is what the amendments will do. Number one, they will add keno as another acceptable form of lottery for counties, cities, and villages, and I would like at this point in time to state that, no, I was not in Reno last summer. I don't know, it must have been someone else that looked like me, but I was in Bellevue and I did see the keno operation there. We feel that operation was being conducted and being regulated as far as the

local people were concerned very well. Number two, changes in the licensing of the governmental subdivision lottery operator and the manufacturer-distributor of lottery equipment and supplies from annual to biannual, the license fee for which stays the same, but it is assessed over the biennium instead. Three, it requires the approval of lottery equipment and supplies by the Department of Revenue prior to the marketing of the products in this state and allows the department to charge for the examination of proposed equipment to be used in the conduct of a lottery. Four, it establishes \$100 as the maximum individual purchase price of a lottery ticket. Five, it increases the allowable expense limitation for local lotteries from 10 to 15 percent of gross proceeds. We felt there was a need for this which was brought to us very clearly by the folks that visited with us at the hearing. Six, it exempts unclaimed lottery prizes from the provisions of the Uniform Disposition of Unclaimed Property Act. Seven, it allows the State Tax Commissioner to employ investigators and inspectors with deputy state sheriff status to enforce the state's charitable gaming statutes. Eight, it keeps the local lottery tax at the current 2 percent of gross proceeds. Nine, it allows local lotteries operating on January, the 1st, of 1989, and which operate more than one scheme of lottery and which operate lotteries not allowed under LB 767, to continue their operations until January, the 1st, of 1991 when those contracts will run out. Ten, it allows organizations under the 501(c)(5) IRS status to conduct bingo games and organizations under the IRS 501(c)(10) to conduct bingo games and to sell pickle cards. You remember that last year when we were dealing with this issue on the floor, we did remove a number of the 501(c) groups. These two, it was also demonstrated to us, needed to be reinstated because of the charitable kinds of the things that they are doing in the communities. Eleven, it increases the payout on pickle card units from the current 75 percent to 80 percent of the gross proceeds. Twelve, it eliminates the two check requirement between operators selling pickle cards and the charities, which turned out to be very much of a handicap to both parties. Thirteen, it lowers the pickle tax from 20 percent to 13 percent of the definite profit. Fourteen, it increases the pickle operator commission from 28 to 30 percent, and we already discussed this a little bit earlier. Fifteen, it increases pickle card expense limitation from 4 percent to 6 percent, allowing for 4 percent for the sales agent, and 2 percent for other expenses. Sixteen, it allows a definite prize for buying the last punch on a pickle card punchboard to make that more

fair. And seventeen, it harmonizes references between sections of the bill, and amendments, and the current law. That is the meat of what is in the amendment. It is a long amendment, and I hope Senator Hartnett will speak to this amendment. He brought some of these provisions to us, but we also, then, included three other bills which were brought to us in the committee. We took the noncontroversial parts of those bills which we felt needed to be adopted and put it into the amendment of the committee for LB 767. We would ask your support for the committee (mike off). Thank you.

SPEAKER BARRETT: Senator Hartnett, on committee amendments.

SENATOR HARTNETT: Mr. Speaker, members of the body, I want to congratulate Senator Smith in her work of bringing a reasonable, reasonable gaming bill, I didn't want to call it gambling, but a gaming bill to the body that will be well regulated by the state, has been well regulated by the cities, and I think it has been a work by all the committee members to do this in our efforts and so forth, and so I think that, and most of it is...a lot of this is tied into the committee amendments as explained by Senator Smith, and I think it is something and I want, you know, also the Department of Revenue were very helpful in working with us, the General Affairs Committee, in drafting good legislation so that we can control and have regulations of gaming, you know, in this state. So with that, I would urge the body to support the committee amendments.

SPEAKER BARRETT: Any other discussion? Any closing statement, Senator Smith?

SENATOR SMITH: No, Mr. Speaker, I would ask for the support of the body in the adoption of the committee amendments.

SPEAKER BARRETT: Thank you. The question is, shall the committee amendments be adopted? All in favor vote aye, opposed nay. Record, please.

CLERK: 27 ayes, 0 nays, Mr. President, on adoption of the General Affairs Committee amendments.

SPEAKER BARRETT: The committee amendments are adopted.

CLERK: Senator, if I may, you had an amendment printed on page 1643, AM1277. I understand you want to withdraw that.

SPEAKER BARRETT: It is withdrawn.

CLERK: Mr. President, Senator Smith would move to amend, Senator, this is the last amendment I have from you on the bill. It is AM1379. (See pages 1668 of the Legislative Journal.)

SPEAKER BARRETT: Senator Smith.

SENATOR SMITH: Thank you, Mr. Speaker. This one is a little bit different than some of the others that we were dealing with. It is going to be more controversial. This one would strike the section in the bill that allows cities to regulate county lotteries. This amendment is more than technical, as I said. It is very substantive. It removes Section 49 of the white copy of the bill which allows cities to tax, regulate, control, or prohibit any county lottery...lottery operating within the cities operating limits. I offer this amendment in a neutral capacity. I have been teased about it a little bit and I suppose Senator Haberman is going to speak on that, but I have mixed emotions about this, and I don't know exactly the way I would even support this amendment at this point in time, so when I put my finger on the button, I don't know how it is going to come out at this time, and I am going to follow on the heels of Senator Ron Withem, the other day, and he got by with it very well. So I am trying that same tactic. I do think though the reason that I did introduce it is I think this is an issue that should be discussed by the body and that we should make some kind of a decision openly on this issue. Originally, local lotteries, once established could run anywhere in the state. So, hypothetically, if Adams County had decided to run a lottery, that lottery could extend to communities anywhere if they wanted to put those tickets in that community. And so that is why we have a great concern about this. Cities are given the power to tax, regulate, or prohibit other lotteries wanting to operate in their community. Therefore, if another local subdivision wanted to run a lottery in Hastings, for example, Hastings would have to approve the activity. When Chapter 9 of the state statutes was recodified in 1986, a drafting error put this power of the cities into the wrong article, so no matter how it was removed, the fact still remains that cities now have no control over what lotteries are conducted in their corporate limits. Not only could Beaver Crossing, for example, run their lottery in Omaha, they could run it statewide. LB 767 reinstates, essentially, what was dropped in 1986. This

amendment, then, would eliminate the language from the bill. Therefore, a vote for the amendment would allow counties to conduct lotteries in cities that did not approve them and a vote against the amendment would give cities the power to regulate or prohibit the operation of lotteries not approved by the city. That is important to remember the way you are going to vote on this issue. I will repeat that again. If you vote for the amendment that I am offering, you would allow counties to conduct lotteries in cities, even if a city didn't approve that, while a vote against the amendment would give the cities the power to regulate or prohibit the operation of lotteries not approved by the city, itself. It should be noted that LB 767 still contains language that allows local governing bodies to jointly agree under the Interlocal Cooperations Act to run a lottery together. That could still happen. Voters in each area would have to authorize a lottery first, however. In addition, another section of the bill prohibits counties and cities from conducting lotteries outside of their geographic boundaries. Therefore, the issue is whether a county-approved lottery should be allowed to operate in a city within that county without any city input, regulation, or supervision of that lottery. This is an issue primarily, quite honestly, between Omaha and Douglas County at this point in time. This amendment has been printed in the Journal. And I don't know if I am going to ask for its adoption or not, I am going to ask for discussion on it instead I think. Thank you.

SPEAKER BARRETT: Senator Hall, please.

SENATOR HALL: Thank you, Mr. President and members. I rise in opposition to Senator Smith's amendment today. Senator Smith, I don't know. I may change my mind between now and Select File, but because I think there needs to be the ability for cities to say who operates a lottery within their boundaries. It is a real problem where I come from with regard to the City of Omaha and Douglas County, because the city virtually just about has extended to all borders of the county, and to operate a city lottery would be to virtually operate a countywide lottery. But what they have traditionally done is had an agreement through an intercooperational, Intergovernmental Cooperation Act, and I would heartily urge them to do that again. I think that they need to make sure that they have that at the Omaha and Douglas County level so that they do work in concert toward this end. I don't think that either of these entities will probably do a separate lottery effort. I think it will probably be a joint

effort, but I can understand where other cities may not, for example, the City of Ralston, which has a local lottery right now, may not want to allow the City of Omaha, if it should choose, or the City of Papillion to cross over into their boundaries, and I think today I guess I feel that they should have that opportunity to, basically, say who can come in and operate as a competitor, or whether a city chooses not to allow the sale of tickets in their boundaries at all. There may be a community that just chooses not to have this, and I think to allow for the ability for that city to do that is what was intended prior to 1986 and the inadvertent misplacement of that statute is not a good enough reason I guess at this time for me to change my opinion on that. I do understand the issue and the concern, especially in the Douglas County-Omaha area because it is a more serious concern there because if the City of Omaha had decided not to let Douglas County in, Douglas County would, basically, only have the fringe area of Waterloo, Elkhorn, and that would be just about it, to sell lottery tickets. They would virtually be shut out of the local option lottery business. So when I say today this is where I stand on the issue, I hope that that area where I come from is able to work out some kind of an agreement like they had in the past. They had a cooperation effort, cooperation between the two entities, so that they did allow for interaction between them. I think they need to move in that direction again but I do also believe that in some of the other areas of the state there may be communities that do not wish to either (a) allow anyone in or allow for competition, and I think they should have that right. So at this point in time, I am going to oppose Senator Smith's amendment to leave that provision that is in Section 49 of the bill intact. Thank you, Mr. President.

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

SENATOR HARTNETT: Mr. Speaker, members of the body, I, also, rise to oppose Senator Smith's amendment. I think she was kind of wavering on whether she was for it or against it, but I think if I can put it in context of I think Senator Smith lives in Adams County, and if we can put a scenario is that say that the County of Adams votes for it and that includes the City of Hastings votes for it, and say the county is say for the amendment, I don't know what the population of Adams County is, but say that their...a high percentage, say 90 percent of the people in Adams County are for the lottery and Hastings turns it

down within the City of Hastings, but as I understand the amendment is it would allow even though the people of Hastings turned this amendment down, the county commissioners or county supervisors, I don't know what they are in Adams County, could conduct the lottery in Hastings without the vote or without the jurisdiction or vote of the county commissioners. And so for that reason I oppose it and I think visiting with Senator Smith, privately and so forth, is that if, say a county, let's take Adams County again, could then if they want a county, could put this lottery say in Lincoln, or other places and I really think that the idea of the lottery and the position was to allow local people to regulate it within their jurisdictions, for cities to regulate it within their jurisdiction, counties to do it, and it is mainly at this time a Douglas County fight but I see that the two bodies have to get together. I think there has to be some cooperation there, and so for this reason, I will oppose this amendment.

SPEAKER BARRETT: Thank you. Senator Wehrbein.

SENATOR WEHRBEIN: Mr. Speaker, members, I'd ask Senator Smith a question, if you will.

SENATOR SMITH: Yes.

SENATOR WEHRBEIN: You indicated this might be a Douglas County-Omaha issue but it could go beyond that if this was changed, right?

SENATOR SMITH: It could.

SENATOR WEHRBEIN: And it could actually put Beaver Crossing, being very progressive, could put a lottery into a populated area in order to raise some money if they so desired if this...

SENATOR SMITH: As long as it was in their county because we changed the bill, see. Now wait a minute. Of the county, yeah, if it is a county lottery, it would be restricted to...in the bill, remember, we restricted it to the geographical boundaries.

SENATOR WEHRBEIN: So I am wondering if...

SENATOR SMITH: It would be...we would allow a community that did not want to be involved in the lottery to say, no, not to bring the tickets in for distribution or...

SENATOR WEHRBEIN: They could say no as it stands now.

SENATOR SMITH: Yes.

SENATOR WEHRBEIN: I was trying to interpret what you said in your handout sheet.

SENATOR SMITH: I am sorry.

SENATOR WEHRBEIN: I was trying to interpret what you said in your handout sheet, and you mentioned Beaver Crossing, that is the only reason I used that, in your handout sheet that they, if this...maybe you referred to it, that they could operate, and that is what I wanted to be sure of, if we change this, only then could they do it. It is right in the middle, not only could Beaver Crossing, for example, run their lottery in Omaha, they could run it statewide. In the middle of the explanation.

SENATOR SMITH: Okay, before the amendment, we attacked it two ways in the bill. We had removal of Section 49, and also we made provisions to stay within their locality. So what you would be doing if you voted for the amendment, you would be allowing counties to conduct lotteries in cities that did not approve them. If you vote against the amendment, what you are saying is cities should have the power to regulate and control whether or not they want lotteries within their own limits.

SENATOR WEHRBEIN: That is the way I understood it and I wanted to be sure I understood it right because I, also, would oppose the amendment for that reason. I think, philosophically, I will use the point that if you are to raise money the way we have it set up now with lotteries, raising money within the confines of a local unit of government makes sense, and avoids the unregulated or wild growing of expansion into other areas without some amount of authority or control doesn't really make sense, and I guess since I probably would have went from neutral to against as I have understood the explanation, I wanted to be very sure I understood it. But I think it makes sense to stay within a geographic area and I would see no reason to expand that, so, therefore, I would be against your amendment.

SPEAKER BARRETT: Any other discussion? Senator Smith, would you care to close?

SENATOR SMITH: Thank you, Mr. Speaker. I would just clarify something that may have created confusion when I introduced this amendment. We, in the bill, in LB 767, we did provide Section 49 which would give the rights of cities to regulate and to control whether or not the lottery came in. This amendment would remove that. But in addition to that, we had already in the bill also did something else that could keep Beaver Crossing from doing what you were talking about by saying in the bill that you are restricted to be in the confines of your boundaries. If you were a county, you could not have lotteries outside your county any longer because of the bill, which has not been adopted yet. So that is what confused you, and for a little bit, me, too, when you were talking about that. So the purpose of this amendment, then, would be to undo what you were talking about. It would take out the opportunity for the city to have some say-so about lotteries in their communities, and I guess I have convinced myself in the course of this conversation to tell everyone here that I am going to be voting against this amendment. Thank you. I would ask for, whatever, the people to vote on the amendment.

SPEAKER BARRETT: The question is the adoption of the Smith amendment to LB 767. Those in favor vote aye, opposed nay. Record.

CLERK: 0 nays, 23 nays, Mr. President, on the adoption of the amendment.

SPEAKER BARRETT: Motion fails.

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

SPEAKER BARRETT: Senator Smith, would you care to talk about advancement of the bill?

SENATOR SMITH: Well, Loran should have voted green on that amendment. He just now came back and asked me what was in it, and it would have had one light. The bill now, essentially, becomes the committee amendments except for the provisions that I stated to you earlier which is the fact that we confine, I guess you could call it confine, the communities or the subdivisions to being able to conduct only one type of lottery at a time, and one other provision, and that they also have been confined to the geographic boundaries of that subdivision or whatever it happens to be. So without any further discussion on

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the bill, I think we have had quite a lot of it this morning, and I do thank everyone for their participation and their help in getting this thing put together and getting it across the floor, and I would just ask for the advancement of the bill and a vote for the bill. Thank you.

SPEAKER BARRETT: Thank you. Any questions? Any discussion? Seeing none, those in favor of the advancement of LB 767 to E & R Initial please vote aye, opposed nay. Have you all voted on the advancement of the bill? Record, please.

CLERK: 28 ayes, 0 nays, Mr. President, on the advancement of LB 767.

SPEAKER BARRETT: LB 767 is advanced. For the record, Mr. Clerk.

CLERK: Mr. President, very briefly, Senator Haberman has amendments to LB 506 to be printed. (See pages 1679-80 of the Legislative Journal.)

I have the lobby report for this week, for this past week, and that is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. We have some friends of Senator Rod Johnson under the north balcony from Osceola, Nebraska. We have Levar and Francis Sandell and their son Joel Carlson. Would you folks please stand and be welcomed. Thank you. We're glad to have you with us. Mr. Clerk, to LB 429.

CLERK: Mr. President, LB 429 was introduced by Senators Baack, Elmer, Schellpeper and Labeledz and Hall. (Title read.) The bill was introduced on January 13, referred to Health and Human Services, advanced to General File. I have committee amendments pending by the Health and Human Services Committee, Mr. President.

SPEAKER BARRETT: Chairman Wesely, on the committee amendments.

SENATOR WESELY: Thank you, Mr. Speaker, members, this bill, LB 429, is a bill brought to us by Senator Baack and some other cosponsors to make changes in the state certificate of need law which was a bill passed in 1979, my first year in the Legislature. I had a great deal to do with that piece of legislation, have taken a great deal of interest in it since

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LB 84, 429, 603, 683, 683A, 739, 767
LR 83

of total revision. Don't try to make up for mistakes you made in LB 775 and LB 773 by trying to compensate for it by passing this type of bill. Two wrongs do not make a right. If you make a mistake one place, correct that mistake. Don't make another mistake trying to rectify a mistake that you made previously.

PRESIDENT: Thank you. The question is the adoption of the McFarland amendment. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 8 ayes, 23 nays, Mr. President, on the adoption of the amendment.

PRESIDENT: The amendment fails. Anything else on it, Mr. Clerk?

CLERK: Yes, Mr. President. May I read some items first, however.

PRESIDENT: Yes, please do.

CLERK: I have amendments to be printed to LB 739 by Senators McFarland and Wesely. (See pages 1814-17 of the Legislative Journal.) Mr. President, amendments to LB 603 to be printed. (See pages 1817-18 of the Legislative Journal.)

New resolution, LR 83 offered by Senator Lynch and a number of the members. (Read brief description of LR 83. See pages 1818-19 of the Legislative Journal.)

Enrollment and Review reports LB 429, LB 683, LB 683A and LB 767 to Select File. (See pages 1819-21 of the Legislative Journal.)

Mr. President, the next amendment I have is by Senator Landis.

SENATOR LANDIS: I'm going to withdraw that amendment.

PRESIDENT: Do you wish to withdraw that? It is withdrawn.

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

PRESIDENT: Okay, on the advancement of the bill. Senator Warner, did you wish to speak?

SENATOR WARNER: Yeah, Mr. President, I rise at this point to

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LB 78, 175, 262, 588, 591, 591A, 606
646, 681, 767, 814

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.

Legislative Journal.)

Senator Smith has amendments to LB 767 to be printed. That's all that I have, Mr. President. (See pages 2028-31 of the Legislative Journal.)

PRESIDENT: We'll move on to LB 769, please.

CLERK: Mr. President, 769 is on General File. It is a bill introduced by Senator Labedz and a number of the members. (Read title.) The bill was introduced on January 19. The bill has been discussed on General File, Mr. President. The committee amendments were adopted on April 24. The first amendment I have to the bill at this time, Mr. President, is by Senator Lynch. Senator, this is your amendment found on page 1825 of the Journal.

PRESIDENT: Senator Lynch, please.

SENATOR LYNCH: Going to withdraw that amendment.

PRESIDENT: It is withdrawn.

CLERK: Mr. President, the next amendment I have to the bill is actually a motion. Senator Bernard-Stevens would move to suspend the germaneness rule to permit consideration of AM1609. (Bernard-Stevens amendment appears on pages 2031-32 of the Legislative Journal.)

PRESIDENT: Senator Bernard-Stevens, please.

SENATOR BERNARD-STEVENS: Thank you, Mr. President, members of the body. And I am a little bit under the weather, so I'll do the best that I can this afternoon. The amendment before you is being passed out at this particular point, is AM1609. It is a far cry different from the amendment that was originally printed in the Journal that got so much play not too long ago. One of the issues that's always concerned me, since I first came to the Legislature, was the terrible dilemma we have and problem, not only nationally, but in the State of Nebraska as well, with teenage pregnancies. And one of my concerns has always been to make...to try to make sure that we have whatever is available at our disposal to maintain a high school equivalency of graduation, at least, or to make sure that these parents, young parents maintain their stay in school. Some would say, well,

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LB 744, 767, 813
LR 104

SENATOR SMITH: A record vote.

SPEAKER BARRETT: And a record vote has been requested, thank you. Senator Schimek is apparently on her way. May we proceed Senator Smith?

SENATOR SMITH: Yes.

SPEAKER BARRETT: Thank you. Members, return to your seats for a roll call. The question is the adoption of the Smith amendment. Mr. Clerk.

CLERK: (Roll call vote taken. See pages 2046-47 of the Legislative Journal.) 27 ayes, 13 nays, Mr. President.

SPEAKER BARRETT: The amendment is adopted. The call is raised. For the record, Mr. Clerk.

CLERK: Mr. President, I have amendments to be printed. Senator Withem has amendments to LB 744; Senator Smith to LB 767. (See pages 2048-50 of the Legislative Journal.)

A new resolution, Mr. President, LR 104 by Senator Hartnett. (Read brief explanation. See pages 2047-48 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Next motion.

CLERK: Mr. President, the next motion I have, Senator Schmit, Senator, I have your two amendments, the State Patrol amendments. Do you want to pass those over? The next amendment, Mr. President, is by Senator Wesely.

SPEAKER BARRETT: Senator Wesely.

CLERK: Your amendment is on page 2037, Senator.

SENATOR WESELY: Mr. Speaker, members, this amendment deals with the problem of emergency protective custody services in the State of Nebraska. I want to give you just a brief outline of the issue, and I don't know that I am going to pursue this amendment, but I do think we need to recognize a problem, and I do plan again to work with the Appropriations Committee on this issue. We did pass a bill a couple of years ago.

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LB 303, 639, 640, 767, 813, 814
LR 105, 106

Senator McFarland. We're voting on the adoption of the Chambers amendment. Call in votes were authorized. Senator Labedz, would you check in please. Senator Warner, record your presence, please. Thank you.

CLERK: Senator Hefner voting no.

PRESIDENT: We're looking for Senator Nelson and Senator Ashford.

CLERK: Senator Lowell Johnson voting no. Senator Weihing voting yes.

PRESIDENT: Okay, a roll call vote has been requested. Are we all here, Mr. Clerk?

CLERK: No, sir.

PRESIDENT: Who are we looking for now?

CLERK: Senator Ashford.

PRESIDENT: Senator Ashford. Is that the only one? Okay. Shall we wait for Senator Ashford, Senator Chambers? All right. Okay, the question is the adoption of the Chambers amendment. A roll call vote has been requested. Please return to your seats so we may begin. (Gavel.) Mr. Clerk.

CLERK: (Read roll call vote. See pages 2053-54 of the Legislative Journal.) 22 ayes, 8 nays, Mr. President.

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

CLERK: Yes, Mr. President, I do. Mr. President, a resolution by Senator Baack. (Read brief explanations of LR 105 and LR 106. See pages 2054-55 of the Legislative Journal.)

Senator Baack has amendments to LB 639, to LB 640; Senator Schmit to LB 814; Senator Baack to LB 303; Senator Hefner to LB 767. (See pages 2055-64 of the Legislative Journal.)

Mr. President, Senator Landis would like to have an Executive Session of the Banking Committee today at two o'clock in the Senate Lounge, Banking Committee in the Senate Lounge at two

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LB 761, 767, 813

not to be going to ask the question. It is very difficult for me to answer it under those circumstances. So with that in mind, I would move for the adoption of this amendment which would create a part-time position in research at the university to investigate the chinch bug problem and hopefully find a solution for it in the next several years. Thank you.

SPEAKER BARRETT: Thank you. The question is the adoption of the Coordsen amendment to LB 813. All in favor vote aye, opposed nay. Voting on the Coordsen amendment. Senator Coordsen.

SENATOR COORDSEN: It appears that we may as well, in the interest of time, have a call of the house and do it.

SPEAKER BARRETT: A call of the house has been requested. Shall the house go under call? All in favor vote aye, opposed nay. Record.

CLERK: 12 ayes, 1 nay 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 and check in. Senator Landis, please record your presence. Senator Wehrbein, the house is under call. Senator Haberman, Senator Lynch, Senator McFarland, Senator Bernard-Stevens, please report to the Chamber. Senators Elmer and Wehrbein, the house is under call. Senators Wehrbein, Bernard-Stevens and Haberman, please. The question is the adoption of the Coordsen amendment to LB 813. Senator Coordsen, do you prefer a roll call? Thank you. Proceed, Mr. Clerk.

CLERK: (Roll call vote taken. See pages 2080-81 of the Legislative Journal.) 25 ayes, 13 nays, Mr. President.

SPEAKER BARRETT: The amendment is adopted. Anything for the record, Mr. Clerk?

CLERK: Yes, Mr. President, I do.

SPEAKER BARRETT: The call is raised.

CLERK: Mr. President, Senator Hartnett has amendments to be printed to LB 767; Senator Dierks to LB 761.

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LB 84A, 211, 767, 769, 813

Hall to LB 767; Senator Lamb to LB 84A; Senator Schmit to LB 813; Senator Chizek to LB 211. (See pages 2106-09 of the Legislative Journal.)

Mr. President, with the divided question, I now have an amendment to Section 1 by Senator Chambers. (Chambers amendment appears on page 2109 of the Legislative Journal.)

SPEAKER BARRETT: Senator Chambers, for your amendment to Section 1 of the divided Lindsay amendment.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, and, Senator Lindsay, I wish you would listen to this. In reading the amendments, what we have in this bill now are committee amendments in addition to the green copy. In the committee amendments, and I will read from the committee amendment, on page 2 of the committee amendments we have a new subsection added to the bill. Are you with me there? In line 11, where it says physician or attending physician shall mean the physician intending to perform the abortion. Do you see that language in the committee amendment?

SENATOR LINDSAY: Mmmm, hmmm.

SENATOR CHAMBERS: Okay. What my amendment would do in Senator Lindsay's amendment, since we're talking about a physician is to strike "person" and put the language in the penalty section that the bill is dealing with. And I'll be quite frank, the language in Senator Lindsay's amendment is much broader than what the bill purports to be concerned about. The bill, because of the addition in the committee amendment of the terms "physician and attending physician" make it clear that we're talking about a physician performing the abortion. In the penalty section we get away from the term "physician" and apply it to any person. It is not likely that a court would say when the Legislature wrote this bill and it intended to deal with an attending physician that it anticipated somebody who is not a physician giving this kind of notification and so forth. So I would narrow the sweep of the penalty provision so that it applies to the physician or attending physician and this is the way the Lindsay amendment would read with my amendment. "Any physician or attending physician who knowingly and intentionally performs an abortion in violation of this act shall be guilty of a Class I misdemeanor." As I stated before, I really don't like the bill and the amendment that I'm offering now does nothing

May 8, 1989

LB 767, 814
LR 135-148

SENATOR SCHELLPEPER: Question.

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

CLERK: 25 ayes, 0 nays, Mr. President, to cease debate.

SPEAKER BARRETT: Debate ceases. Senator Hartnett.

SENATOR HARTNETT: Waive.

SPEAKER BARRETT: Waives closing. And the question is striking Section 18. If you care to delete Section 18, vote yes; if not, vote no. Those in favor vote aye, opposed no. Record, please.

CLERK: 2 ayes, 23 nays, Mr. President, on adoption of the amendment.

SPEAKER BARRETT: The motion fails. Anything for the record, Mr. Clerk?

CLERK: Mr. President, I do, thank you. A series of interim study resolutions. I have LR 135 by Senator Ashford, LR 136 by Senator Baack, LR 137 by Senator Smith, LR 138 and LR 139 by Senator Smith, LR 140 by Senator Smith and LR 141; LR 142 by Senator Smith, LR 143 by General Affairs Committee, LR 144 by Senators Landis and Wesely, LR 145 by Senator Ashford and LR 146 by Senator Lamb, LR 147 by Senator Lamb and LR 148. (See pages 2157-66 of the Legislative Journal.)

Mr. President, Senator Abboud has amendments to LB 767 to be printed. (See pages 2156-57 of the Legislative Journal.)

Mr. President, I have confirmation report from the Transportation Committee. (See page 2156 of the Legislative Journal.)

Mr. President, the next amendment I have to LB 814 is to strike Section 19 from the bill.

SPEAKER BARRETT: Senator Hartnett, please.

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LB 303A, 767

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 Hall.

SENATOR HALL: I'd move that LB 303A be advanced to E & R.

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. It is advanced. Move on to Select File, LB 767.

CLERK: Mr. President, 767, I have E & R amendments pending, first of all, Mr. President.

PRESIDENT: Senator Hall, please.

SENATOR HALL: I move the E & R amendments be adopted.

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

CLERK: Mr. President, I have a series of amendments to the bill. The first amendment I have is by Senator Conway.

PRESIDENT: Is Senator...has anyone been authorized to handle it for Senator Conway? Senator Conway, please.

CLERK: Senator, your amendment is on 2027 of the Journal.

SENATOR CONWAY: Mr. President and members, this particular adjustment is meant to be friendly in the sense that I have been supportive of this legislation as we go. One of the things that came out early on was the concept of grandfathering those people that were already participating. And in my particular district one of the communities of the two that needed to be grandfathered, officially, their lottery that was to be grandfathered, I think everyone's intention was to grandfather, was not officially on board and operating until March 1st. And because of the January 1 grandfather date that would preclude inadvertently, I believe, from what the intention of the grandfathering was, would preclude that particular lottery. So my amendment simply takes the grandfather of those that were operating prior to March 1st instead of the January 1st that is in the bill to pick up that community that I believe was

intended to be one of the grandfathered communities. So that's all it is, is a technical amendment to change that operative date for the grandfathering.

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

SENATOR SMITH: Thank you, Mr. Chairman. Members of the body, I guess I would stand to...this is not something that I think is something that's going to really harm the bill at all. It's simply, in my understanding, setting the date forward two months and I have no problem with. Basically, what we're doing is grandfathering for the length of the contract. Is that my understanding...is that correct? Okay. And I...you know, this is limited and so I would support that. Thank you.

PRESIDENT: Thank you. Senator Nelson, please. (Gavel.) Let's, please...

SENATOR NELSON: Senator Conway, could I ask you a question? In no way are we by saying, okay, grandfathering in, you know, lotteries and so on, or then are we allowing businesses or communities...I mean, communities, excuse me, and cities that now have lottery or are we opening the gate to, so to speak, well, we grandfather one in or we change the date to eventually wide open lottery? I'm very cautious on grandfathering anyone in because then it gives them a special...an opportunity that may or not be good for them forever.

SENATOR CONWAY: Thank you, Senator Nelson, because that will help clarify what the intention of the bill, was to grandfather those people that are already operating as of January 1st of this past year. I had one community that's official date was after January 1st which was one of them that was discussed as being one of them that should be grandfathered. And so we're moving it forward to March 1st of this year so no one new will come in. It will be those prior to March 1st which is already passed.

SENATOR NELSON: I understand that little technical thing. I guess my point is probably a little bit further than that. I...I have a real problem grandfathering anyone in.

SENATOR CONWAY: Uh-huh.

SENATOR NELSON: In other words, whether we're going to allow lottery for now or five more years down the road or I guess that's my main thing. Once you start grandfathering in, you have got the gate open.

SENATOR CONWAY: I believe the key was there two of them that were already operating two lotteries and one of the provisions of the bill is to exclude the operation of any more than one lottery, but since those two already had theirs up and running and had the expenses involved and so forth was to let them operate during the term of this bill.

SENATOR NELSON: I understand. Thank you.

PRESIDENT: Senator Schmit, please.

SENATOR SCHMIT: A question of Senator Conway, please.

PRESIDENT: Senator Conway, please.

SENATOR CONWAY: Yes, sir.

SENATOR SCHMIT: Senator Conway, you said this will grandfather an existing lottery for a term of a contract. Can you identify the situation specifically what you are attempting to address?

SENATOR CONWAY: I believe both Bellevue and South Sioux, which were the two communities that were in question, by virtue of some interpretations of the previous lottery language, felt that it was possible to operate two lotteries. They had a keno game going as well as a scratch ticket, both those two types of lotteries in operation. As this bill came down and eventually said only one lottery per community, these two were already operating two lotteries and so the intent, from what I understand, which was going on in the committee, was not to preclude those two to continue until, was it, 1990 provisions in the bill, to go ahead and allow those two to operate those two simultaneous games during that term rather than force them to absorb those costs and back into only one but let them continue those two.

SENATOR SCHMIT: Well, I can see, Senator Conway, where one lottery might be sufficient in Bellwood or Fairfield. I see this one in Fairfield is going to try to make \$50,000 a year on a keno game and that's all right with me. But isn't it a little

bit unreasonable, for example, to limit a larger city to a single lottery in the manner in which we are doing it? Why don't we allow the cities to make that determination as to what they determine is reasonable and proper for their city?

SENATOR CONWAY: I would rather, as you well know, make some adjustments in that. But since the motivation and the momentum of that bill seemed to have this mentality, I wanted to at least take care of the communities that I was aware that were already doing such and to allow them to function accordingly.

SENATOR SCHMIT: Well, isn't it a fact, Senator Conway, that in the situation of Bellevue, at least, it is not...it is not designed to continue into operation indefinitely the one type of lottery but rather to terminate that lottery at the end of that contractual period rather than to allow the city to determine at the end of that contract period whether or not they want to renew that lottery? And is it not, in fact, true that in Bellevue you have two separate and distinct type of operations that are conducting lotteries in two separate businesses and we are, in fact, putting out of business the one business and allowing the other to continue? Is that not true?

SENATOR CONWAY: Under this legislation that's being proposed, I believe that is true that after we get to the 1991 or 1990, I would have to look at the final date on this, but it would force them to go back to one. And what they're asking for is let us run the two until that date. Like I say, I would prefer following your line of thinking and not have that provision in the bill, period. I'm just trying to make...because that provision is there, to at least allow those that are doing it to continue to do it until the contract runs out.

SENATOR SCHMIT: Thank you, Senator Conway. I do have an amendment which would strike that language until January 1, 1991 and I will discuss it further. But I would just like to say that I believe that this Legislature would like to indicate that we really don't have lotteries in operation but, at the same time, we allow them to exist somewhat surreptitiously. Senator Nelson referred to wide open lotteries. The facts are, Senator Nelson, that we do and will have eventually a wide open city by city lottery. Several cities last night approved of lotteries and I am of the opinion that it will continue to become popular as sources of revenue for the cities. In some instances, counties will do so and in a year or two or five all of a sudden

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the State of Nebraska will determine that they probably didn't do it right, they allowed the cities and counties to usurp this form of revenue...

PRESIDENT: One minute.

SENATOR SCHMIT: ...and by that time it will probably be too late. I would just like to point out once again that in this instance, with this language, it is not the city that is being terminated in January of 1991 but it is, in fact, a business man who has made an investment in lottery equipment. And so I would support the Conway amendment but I would ask you to also support my amendment when it comes up which Senator Conway says he agrees with. And I would like to hear from Senator Smith also because I know that she has done a lot of work on this and probably has some comments on it.

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

SENATOR HARTNETT: Mr. President and members of the body, I simply rise to support Senator Conway's amendment to this as I think that at the time as we made the changes and kind of restricted what the state or communities could do as far as the lottery was concerned is that we were...there were only two communities in it at that time and it was my community of...Bellevue was a community of South Sioux City which Senator Conway represents and we thought that January I would get both communities in. That was kind of the intent of the legislation that was drafted. I think Senator Conway actually discovered his operation didn't begin until March and so we are simply...I think the change is good and I think it still...it still restricts. It's just two operations that they are grandfathered in. So, for that reason, I would rise to support what Senator Conway's change is making.

PRESIDENT: Thank you. Senator Smith, please.

SENATOR SMITH: Thank you, Mr. Chairman. I will be very brief. Senator Nelson, I would just...are...do you...do you have a clarification in your...about your concerns for the grandfathering?

SENATOR NELSON: I think so. Thanks.

SENATOR SMITH: Okay. All right, and this is limited and that's what we're doing, we're allowing the existing contracts which are out now to continue until the end of that contract period. One of the things that I would just make clear to the people on the floor here is that the city is not limited to one game, Senator Conway, for your information, it is not limited to only one game. It's limited to one type of lottery. It could have 50 keno games if a large city felt it needed that many or it could do as many games of ticket lottery as they want to, rub off or pull tab. But we're limiting the types of gambling is really what it amounts to in this piece of legislation. And I guess that I would...I know that Senator Schmit feels very strongly about this issue. I know that his amendment is going to try to open it up again and I understand where he's coming from but, at the same time, I want to make sure that we all know what's coming up with that amendment. And I would say that the city can renew a contract with an existing business person. The only thing, of course, is that that business person will have to confine his operation to the kinds of things that we're allowing in this piece of legislation. Thank you.

PRESIDENT: Thank you. Senator Conway, would you like to close on your motion, your amendment?

SENATOR CONWAY: Thank you, Mr. President, and members, I think the concept has been well brought out that, in discussion, the intent, from what I understand from Senator Smith and the committee involved, was to make changes in the future but...and to allow the communities that were already operating as such, in my case and in Senator Hartnett's case, two different types of lotteries. One was the keno and the other one was scratch. They were operating and they were brought up in the intent, I believe, of the legislation to grandfather those in. Inadvertently, by picking the date that they had to be in operation by January, the second type of lottery that was being offered in my community was not officially on record until like February and that's why I moved the date to March. The intent was to include them and by virtue of the date being January they weren't included and that's...that was simply the adjustment.

PRESIDENT: Thank you. The question is the adoption of the Conway amendment. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of Senator

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Conway's amendment.

PRESIDENT: The Conway amendment is adopted.

CLERK: Mr. President, Senator Smith would move to amend. Senator, I have AM1572. That's on Journal pages 2028.

PRESIDENT: Senator Smith, please.

SENATOR SMITH: Thank you, Mr. Chairman. Members of the body, this is an amendment that I discussed with you on General File but it was not ready at that time and so I'm introducing it now. What it would do is, first of all, two things, it would add some...a new section, one of the...to the bill, it adds two sections, totally, but the first part of it allows the department to do background checks for any criminal record on the applicants for the charitable gaming license. This is done through the Nebraska State Patrol assessing the FBI's national computer system and this is really similar to what we're already doing as far as liquor licenses are concerned with the Liquor Commission. So this is making it basically the same as what we do with liquor license. The second part of it is that it puts in a procedure for grandfathering in county lottery operators if they were annexed by a city that prohibits lotteries and that operator then would continue to...would be allowed to continue the operation until the end of their contract or for two years, whichever is the shorter of the two. We had some concerns about the fact that if you had a county lottery, for instance, and, of course, the county would place those...the place where they do the gambling as close to the city as they could because they would be able to attract folks from the city, and then the city decided to annex for whatever reason, and it might even have the ulterior motive of bringing in that gambling location, then the county could continue to operate that until the end of its contract or for the two years. And that's the purpose of this amendment, making sure that the county does have that protection. And then, finally, the last thing, through Sections 2 through 6 and then 8 and 10 we just are making some technical changes that were recommended by E & R or that just clarify changes that were made earlier in the bill. So that's the gist of the amendment and I would ask for your support for it.

PRESIDENT: Thank you. Senator Schmit, please.

SENATOR SCHMIT: I would like to ask Senator Smith a question if she would yield, please.

PRESIDENT: Senator Smith, please.

SENATOR SMITH: Yes.

SENATOR SCHMIT: Senator Smith, in your second portion of your amendment relative to the situation which you described, was it the decision of the committee that regardless of the size of a community or the population of a community or a county that a single lottery operation would be sufficient to serve the needs of a community?

SENATOR SMITH: Senator Schmit, that has nothing to do with this but I think I did...you might not have heard me when I heard you say that earlier and maybe I need to have clarification from you by what you mean by a single lottery, a single game. It's not a single game. They can have as many games as they want of that type of lottery in a larger urban area. In other words, as long as they are confined to the provisions of this bill, if they wanted to have keno, they could have it and they could have it in 50 locations rather than just one. Or if they wanted to do rub off or a pull tab ticket lottery, they could do that in as many locations as they wanted to do it.

SENATOR SCHMIT: If the City of Omaha, under the present provisions, wishes to get into the lottery business in a backhanded way, they could, for example, not even operate a lottery but could tax the Douglas County lottery for the privilege of operating within the city limits. Is that right?

SENATOR SMITH: Yes.

SENATOR SCHMIT: And would they have any control over the operation of the lottery? Would it be the responsibility of the county to operate and supervise and police the lottery?

SENATOR SMITH: They could regulate the lottery within the city boundaries.

SENATOR SCHMIT: But would they have the authority then to police the operation and to examine the records, the financial records and any other equipment to be sure that everything is being conducted legally?

SENATOR SMITH: Yes. Within their boundaries, they could do that.

SENATOR SCHMIT: And they could charge anything they chose for the privilege of allowing the county to operate? Is that right?

SENATOR SMITH: Yes, I guess it's my understanding, I didn't realize that with the way...the case...but it is true, I guess.

SENATOR SCHMIT: At the present time, Douglas County has an authorized lottery and if they chose to operate a lottery, for example, the City of Omaha could charge Douglas County 90 percent, if they so chose, of the net proceeds of that operation to conduct the lottery within the city limits of the county...of the city. Is that right?

SENATOR SMITH: I'm sorry, I didn't hear what you were saying, Senator Schmit.

SENATOR SCHMIT: Since Douglas County does have a licensed lottery, I believe, at this time, although it's not functioning, and since the city does not have one, the city could effectively tell the county that if you choose to locate any of your outlets within the city limits, you may do so but we will tax you for 90 percent of the net revenue. Could they do that?

SENATOR SMITH: I don't believe they could tax the 90 percent, Senator Schmit. They could do one of two things. They could either prohibit it within their boundaries or they could tax within the constitutional limits and I think reasonable limits. I don't think 90 percent would be reasonable or considered reasonable.

SENATOR SCHMIT: Well, is there language in the bill, Senator, that defines or says specifically that they may charge a reasonable limit for the operation within the (interruption)?

SENATOR SMITH: No, there is not but I think that they would have to follow what we would...I mean, that could be contested if they would try...they cannot be arbitrary or capricious in what they would charge as a tax.

SENATOR SCHMIT: What would limit them, Senator?

SENATOR SMITH: Well, I suppose probably, if nothing else, we have so many things in this piece of...in this legislative body that end up going to court that that could be tested in the courts and I'm sure that they could not...they could not get by with tax at 90 percent.

SENATOR SCHMIT: Then another question. In the area of the operation itself...

PRESIDENT: One minute.

SENATOR SCHMIT: ...the County of Douglas could conduct a keno operation and they could hire 10 different operators to conduct a keno operation outside the city limits. They could conduct...they could hire that many other operators to conduct the keno operation within the city limits but they could not conduct two separate type of lottery operations. Is that right?

SENATOR SMITH: That's right. If they are playing keno...if they decide that they want to use keno as their type of lottery, then that's the game that they play and they can have operators doing that across the city.

SENATOR SCHMIT: Okay, thank you.

PRESIDENT: Thank you. Senator Smith, please.

SENATOR SMITH: Are there any other lights?

PRESIDENT: Yes, three.

SENATOR SMITH: Well, I think that I will just pass then.

PRESIDENT: All right, Senator Hartnett, please, followed by Senator Langford.

SENATOR HARTNETT: Mr. President and members of the body, I simply rise to support the Senator Smith amendment because I think we really should have...we're into an area...I think we should have the same regulations and controls of the people who run and operate the lottery business as we do with liquor license. So I think...I think the amendment that Senator Smith brought to us is a good amendment. I think we have a better control. We do not allow undesirables, I guess, if you want to say, in the business. So I think I support Senator Smith's

amendment.

PRESIDENT: Senator Langford, please. Senator Schmit, please.

SENATOR SCHMIT: Mr. President and members, I just wanted to call attention to the amendment which is proposed by Senator Smith, Section 61, on line 17, and, of course, this refers to a territory which is annexed. I have not identified any other type of language but I will read it for you. It says, "The lottery shall be subject to all taxes, regulations and controls imposed by the city or village under such section, whether imposed before or after annexation." So that would indicate to me...it doesn't say anything about reasonable, it would indicate that if a city so chose, they could enact any kind of tax relative to the imposition of a lottery. I just want to point out a couple of other little problems that will develop if we do not provide for some system of equity in this area. As we know, the conduct of a lottery will develop over the years from one entity to another and from one phase to another and one type to another. There is now an electronic keno game which is most successful in Ralston. It is working to the detriment of the Bellevue lottery system which I have no doubt will be revised and will eventually probably catch up again. But, as Senator Smith has accurately pointed out, if the City...if Douglas County chose to enact a lottery and to conduct it on the premises of those institutions that surrounded the city, that would, I am sure, encourage a certain amount of patronage to those taverns and lounges to the detriment of the city establishments. Therefore, it would be pressure upon the city to allow the development of the lottery within the city because it would be seen as a distinct business disadvantage for those taverns which were not allowed to conduct a lottery. So, with that, of course, you would have to determine how many locations, how you...how you decide where to locate and the various fees that might be charged per location. It would appear to me that the operation here does lend itself to some controls but I would just like to point out that in this gambling business we have a tendency to build a fence around certain entities and some are included and some are excluded. The amendment that I will propose later proposed to allow all entities that were operating to continue to operate and in this case, to my knowledge, it impacts only upon one individual business. And I would hope that we would take into consideration that this business operated legally, this business operated at a considerable amount of investment and this business has operated in a place

of business which is a very substantial and respectable business and we ought to, I think, try to accommodate them. But I want to point out that this language gives the cities a considerable latitude for the control of any kind of operation because of the regulations of the taxes, et cetera, which they may propose. I think that I would prefer, since the State of Nebraska chooses to wash its hands of lottery, I would prefer that we give the cities and the counties the maximum amount of flexibility in regard to the control. If the city chooses to operate only a single facility, that would be satisfactory with me. If they choose to operate two or 10, that's the decision of the local governing body. If they choose to operate two kinds of lottery, it would seem to me that that ought to be left to the discretion of the city.

PRESIDENT: One minute.

SENATOR SCHMIT: Why do those of us on this floor who do not understand the peculiarities of the system choose to write the rules rather than to allow the local governments to do so? I think, in this one instance, again, I would prefer it were a state lottery but since we don't have a state lottery and we only live off the existing operations, then why don't we just let the cities draw the rules and regs and we can live off the tax that we collect from them.

PRESIDENT: Thank you. Senator Smith, would you like to close on your amendment, please.

SENATOR SMITH: I would just have a short comment to make in response to some of the things that I just...that you were saying, Senator Schmit. I would just say that the purpose of this piece of legislation is to restrict the type of, if you want to call it, gambling that go and also to regulate. And it would be very difficult if we had no, in my thinking anyway, it would be very difficult if we had no limits as to the type of gambling that could go on and still try to regulate that from the state level. We would have to have...I mean, regulation of all types of things. And, I guess, in my thinking, it's just easier this way and if we're going to allow cities and communities and counties to decide whether or not they want to have their own local gambling, I feel very strongly it should be regulated. And I guess, with that, I will just say that I would hope that folks will support this amendment and close. Thank you.

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

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of Senator Smith's amendment.

PRESIDENT: The Smith amendment is adopted. The next one.

CLERK: Mr. President, Senator Smith would move to amend. Senator, I have AM1470 on page 2048 of the Journal.

PRESIDENT: Senator Smith, please.

SENATOR SMITH: Thank you, Mr. Chairman. Members of the body, this amendment would allow...

PRESIDENT: Senator Smith, may I interrupt you. (Gavel.) We're talking a lot around the Chamber. Please hold the conversation level down so we can hear the speakers, please. Thank you.

SENATOR SMITH: Thank you. This amendment is intended to allow the vote to be discontinued as far...to allow the vote to discontinue the lottery in the community where it had already been instituted and had been established. And there are two ways that this could happen, by the initiation of the local governing body or by a petition of the people and that has to be 20 percent of those that voted in the last election. And if a majority vote to cease is made, that would terminate that lottery for that community, within 60 days, it would have to be terminated. If it fails, they can't try again for another two years. I guess the reason for this is the fact that this is established...the lottery is established by the people of the community and so they ought to also have the right then to abolish it. And that is the intent and purpose of this amendment. I would ask your support.

PRESIDENT: Thank you. Any further discussion? If not, the question is the adoption of the Smith amendment. 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.

PRESIDENT: The Smith amendment is adopted.

CLERK: Mr. President, Senator Hefner would move to amend. Senator Hefner's amendment is on page 2064 of the Journal.

PRESIDENT: Senator Hefner, please.

SENATOR HEFNER: Mr. President and members of the body, amendment 1471 which is on page 2064 puts all cities and counties on the same level. The amendment strikes the grandfather clause and states that, regardless of the date of the original voter approval for a lottery, if four consecutive years have passed without the operation of a lottery, voter approval must be given again. And I believe this would affect about eight cities. And so I move the adoption of this amendment.

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

SENATOR SMITH: Thank you, Mr. Chairman. Members of the body, I will have to oppose this amendment and the reason that I oppose it is because of the fact that it will be very expensive if they have...if the...I think that if a city has elected by a vote of the people to be able to institute a lottery in that community but still not enacted that lottery that I see no reason for another vote to be taken to take that right away of the lottery. It does cost. I was told it costs as much as \$250,000 in a city like Omaha in order to do something like this. And I believe that the amendment that we just adopted actually, indirectly, will take care of this concern that you have, Senator Hefner, because what we're doing is saying that after they started the operation of the lottery if enough of the people decide this is not something that they want to see going on in their community or they see some problems with it, they can have an election to remove that lottery from the community. And so I guess I will have to oppose this because I don't believe this is necessary and I think that it would be very costly.

PRESIDENT: Thank you. Senator Hall, please, followed by Senator Hartnett.

SENATOR HALL: Thank you, Mr. President, and members, again, I would reiterate just what Senator Smith said and rise to oppose Senator Hefner's amendment because, basically, I don't think

it's needed now. I think Senator Smith's amendment that we just adopted preempted this amendment in that it allowed for those individuals who, for whatever reason, may not want the lottery to take place, to put that issue on the ballot. And that's only in cities and towns that have already adopted that provision through an election. With Senator Hefner's amendment, what that means is that if there is a community for one reason or another who haven't used the lottery provision and it has sat idle or dormant for four years, they will have to go through the entire process and costs of another election to provide for that lottery to take place. Just last night, for example, there were two communities very near Omaha and Douglas County that both adopted the local option lottery overwhelmingly, Waterloo. It was somewhere in the neighborhood of 90 percent in favor, 10 opposed; and Elkhorn, the community of Elkhorn, 70 percent in favor and 30 percent opposed. Those individuals voted on that and put it into place. Now they had never voted on the issue before and that's fine, that's the way it ought to work. But by adopting Senator Hefner's amendment, what you do is you say if Elkhorn decided not to use it for whatever reason, it laid dormant for four years, they would have to come back five years now...from now, go through the expense of an election even though the community overwhelmingly at the time supported it. Now if there are individuals who want to take it off the books, then it ought to be proactive on their part and they should have to, as we have already adopted through Senator Smith's amendment, which I think is a good amendment, put the issue on the ballot and up to a vote to rescind that. So I would urge the body to reject Senator Hefner's amendment, basically, because I don't think it's necessary at this time since we have adopted Senator Smith's amendment. Thank you.

PRESIDENT: Thank you. Senator Hartnett, please.

SENATOR HARTNETT: Mr. President and members of the body, Senator Hefner, could I ask you a question?

PRESIDENT: Senator Hefner, please.

SENATOR HARTNETT: This...your amendment simply deals with communities that have not conducted the lottery for a period...four years. Is that correct?

SENATOR HEFNER: Senator Hartnett, yes. If they voted in a lottery and have not been conducting a lottery, after four years

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they would have to vote again. And I believe, Senator Hartnett and, Senator Smith, correct me if I'm wrong, but if this bill passes as it is, then if a community or a city votes it in and does not conduct a lottery for four years, well, then they would have to vote again, as I understand it.

SENATOR SMITH: Could I...would you mind if I would just add something to this?

SENATOR HARTNETT: Yes, I will give you my...it's my time.

SENATOR HEFNER: This is Senator Hefner's time.

SENATOR HARTNETT: Yes, I will give you my time. That's all I wanted to do is just clarify it. I will give you my time.

SENATOR SMITH: I thought it was his time.

PRESIDENT: Senator Smith.

SENATOR SMITH: All right, I would just say that, yes, the bill does make a provision that if, after four years, they have not begun the lottery operation after the vote then it does become...it has to...there would have to be another election, but they know that when they go into it, by the bill. The bill will...after it becomes law, they know this. The folks that we're talking about are those that would be, basically, you might call it grandfathered in because they already had a vote prior to this bill. And so what we're saying is those people already had a vote and there has been...they have not held a lottery at this point in time but, basically, why force them to...we're only talking about a limited number of communities here and it would be very costly for them to hold another election process, as I mentioned, 250,000 for Omaha.

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

SENATOR CROSBY: Thank you, Mr. President, and members, I have listened again to the debate on all of the various kinds of gambling that are allowed in the State of Nebraska. I am not a gambler. It kills me to lose 20 cents. I would rather give it to the horse or give it to the jockey or whatever but not bet it. My motto is "horse sense is what keeps horses from betting on what people will do." And I think that we all...the people

who like it and like to do it, I am glad that we do have regulations. Long ago, in the fifties, Jim Anderson, who was then Attorney General, yanked all the slot machines out of the Legion Clubs, and Loran's is nodding his head, you were just a little boy, Loran, you don't remember that. There were a lot of little old ladies that were unhappy with him, but it was against the law and so, as I say, I am pleased that you do...that there are a lot of regulations. I am trying to understand all the regulations. I have paid attention for the last several years when you have been debating this issue time and time again as to how to regulate. Bingo used to just be fun for people who went to the church or the Legion hall again or the VFW and had an evening of fun, fellowship and maybe win even a coffee pot, sometimes not money. So I guess Senator Schmit mentioned that some towns yesterday in the Omaha area voted in lotteries. We...I am trying to understand all these amendments and trying to understand what they do and what I am trying to say is this. A lot of people use up a lot of money in gambling and they're quite often the people who cannot afford to. When I read that some man who takes home \$200 a week, uses \$60 out of that paycheck each week to buy tickets in the Iowa lottery, that's \$3,120 a year if he does that each week. That's taking money from the family and that's why, just as a feeling of mine, I am against gambling in general because I do think it hurts families and it hurts people who can least afford to gamble. I am sorry that we have gotten to that point where it isn't fun anymore. Bingo isn't even fun anymore. It used to be just a kind of a get-together, people who liked to see each other and enjoyed the evening. It isn't that anymore. But, as I say, I am trying to understand all these amendments. I may not even vote on this one because I am not quite sure what it's doing. So if I don't vote, Senator Hefner, it's simply because I am not...I don't understand the whole picture. Thank you.

PRESIDENT: Thank you. Senator Hefner, would you like to close on your motion, please.

SENATOR HEFNER: Mr. President and members of the body, I think there is some confusion here. This amendment puts all cities and counties on the same level and what it states that regardless of the state that the original voter approval for lottery if four consecutive years pass without the operation of the lottery, well, then the people must vote on it again. And this is exactly what this bill says. If this bill passes and say that a city or a county votes to have a lottery towards the

end of this year or the first of next year, if they don't have an active lottery, well, then after four years the people would have to vote again. And what this amendment says, like if those cities or counties voted before this bill went into effect and did not have an active lottery for four years, they would have to vote again. So what I am trying to do is put all cities and counties on the same level with this bill when it passes. And so I would urge the adoption of this amendment.

PRESIDENT: The question is the adoption of the Hefner amendment. All those in favor vote aye, opposed nay. Senator Hefner, please.

SENATOR HEFNER: Mr. President, I would ask for a call of the house.

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

CLERK: 13 ayes, 1 nay to go under call, Mr. President.

PRESIDENT: The house is under call. Will you please return to your seats and record your presence. Those not in the Chamber, please return to the Chamber and record your presence. Senator Rod Johnson, will you record your presence, please. Thank you. Senator Weihing, will you record your presence, please. Senator Schimek, record your presence, please. Senator Beyer, Senator Byars, Senator Moore, Senator McFarland, Senator Haberman, Senator Wesely. We're still looking for Senator Haberman. Senator Haberman is on his way, I understand. Roll call vote in reverse order. Okay, as soon as Senator Haberman gets here we will do that. The question is, ladies and gentlemen, the adoption of the Hefner amendment. A roll call vote has been requested in reverse order. Will you please hold down the conversation so the Clerk can hear your response. Mr. Clerk.

CLERK: (Roll call vote read. See page 2265 of the Legislative Journal.) 19 ayes, 16 nays, Mr. President.

PRESIDENT: The motion fails. The call is raised. Mr. Clerk, the next.

CLERK: Mr. President, the next amendment I have is by Senator Hartnett. Senator, your amendment is on page 2081 of the

Journal.

PRESIDENT: Senator Hartnett, please.

SENATOR HARTNETT: Mr. President and members of the body, my amendment is found, as the Speaker or the Clerk said, it's on page 2081. And all it says is a lottery operator shall be a resident of Nebraska or, if a partnership or corporation, shall be organized under the laws of this state as a partnership and corporation under the laws of the state. And I think the reason for doing this, in the past we have had...and I guess we have had lottery issues since I have been in the Legislature, five years, and so forth, and simply in other past legislation we have deal with this. We say the people have to be a resident of the state and that's simply what this amendment does, that they have to be...to operate a lottery they've got to be a resident of the state in order...if it's a corporation or a partnership operating. So I think it's good...good intent legislation that they are a citizen of this state. So, with that, I would ask for support of this amendment.

PRESIDENT: Thank you. Senator Schmit, please, followed by Senator Hartnett and Senator Smith.

SENATOR SCHMIT: I have no objection to the amendment. It probably is unconstitutional but that doesn't stop us from passing it anyway. And it's a good try anyway.

PRESIDENT: Thank you. Senator Smith, please.

SENATOR SMITH: Thank you, Mr. Chairman. I would just rise to say that I support this amendment. It sounds like it makes sense to me although I have a concern now if Senator Schmit says it may be unconstitutional. I certainly don't want to have to provide some more money for the attorneys in here. Thank you.

PRESIDENT: Senator Hartnett, would you like to close, please.

SENATOR HARTNETT: Waive.

PRESIDENT: The question is the adoption of the Hartnett amendment. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 27 ayes, 0 nays, Mr. President, on adoption of Senator

Hartnett's amendment.

PRESIDENT: The Hartnett amendment is adopted. May I introduce some guests, please, in the north balcony. Senator Scott Moore has 24 third and fourth grade students from Garland Elementary School at Garland, Nebraska and their teacher. Would you students and teacher please stand so we may recognize you. Thank you for visiting us today. Mr. Clerk.

CLERK: Mr. President, Senators Hall and Smith would move to amend. The amendment is printed separately, Mr. President. You will find it in your bill books.

PRESIDENT: Senator Hall, are you going to handle that?

SENATOR HALL: Yes.

PRESIDENT: All right.

SENATOR HALL: Thank you, Mr. President, and members, the amendment deals with changes in the statutes that affect bingo. And, as many of you know, there has not been a bingo bill that was advanced from committee this year because the changes that are made are very limited and they're, virtually all of them, at the request of the department. I have handed out for you a sheet, checkerboard, that shows one of the provisions of the amendment and if you would just take a moment to look at that. The left-hand column there where we talk about manufacture of pickles, a distributor...bingo distributor of pickles, and if you would look at that column and right at the top of it, if you are licensed as one of these, then you can be licensed as one of the others across the top. And that's where you have the yes, no, yes, no, in there because it lays out for you what the limitations would be with regard to licensing ability or cross-licensing, if you will, under the amendment. That's one of the provisions in there. The second provision deals with the licensing fee for the manufacturers, makes it be renewed annually and sets a fee at \$1,525. It allows for the fee to be waived if the applicant has paid the fee to obtain a pickle card license at the same time. The third, fourth and fifth and also the second to the last provisions on the handout that I gave you are record keeping requirements. Basically, it requires that records be maintained on the part of the manufacturers, the distributors and allows for the Department of Revenue to have some information although they will retain it as confidential

information with regard to the manufacture in their reports. The sixth item on there would be that the Tax Commissioner would have the ability to seize contraband, bingo supplies or equipment and to destroy such property if they saw fit. It would establish...seventh, it would establish a chain of...for bingo supplies with regard to the marketing thereof so that the bingo paper that was used would have to be bought from a licensed organization, a distributor or manufacturer so that the chain would not be broken or could not be broken so that bingo paper or supplies that were purchased would have to be from someone who is in the business and was licensed by the state. The next provision there provides for a three-hour break between games. And this is a provision that has, basically, been an Omaha problem. What you have is you have some organizations that are running back to back games. Although they're not really two different games, they are one game and it is ability for them to do that so that they can, basically, circumvent the \$4,000 cash prize provision. There is another down third from the bottom that deals with the elimination of the ability to advertise a total payout prize of over \$4,000. What we have happening in Omaha is that some of these halls will run two bingo games virtually simultaneously. They will take a 10-minute break. They will advertise that the payout is \$8,000. There won't be an \$8,000 payout because they will use a number of different forms to require that...or a number of different methods that have to be met to reach that \$8,000 payout. But it does allow them to, basically, circumvent the \$4,000 one-game rule. They don't sell any additional paper. They use the same paper that is in...with the first game. They just say that the last two games are, basically, the second bingo game in operation. So these changes would allow that no advertising over \$4,000 and at least a three-hour break between games so that we wouldn't run into this problem. It would still allow for any organization that runs a matinee and an evening game to function and function in an orderly fashion. The next provision is one that I have an amendment to this amendment on, deals with eliminating the local government option and I will talk about that when I offer the amendment to this amendment. The next one requires that individuals be at least 18 years of age in order to work at a bingo occasion. Currently, we require that individuals who sell pickle cards be 18 years of age in order to do that. This would just make a uniform provision across the line. What happens is that folks working in a bingo game do a number of different activities. If they are under that age of 18, then they will ultimately be selling pickle cards and be

in violation of that provision. It makes the age uniform across the board with regard to these two activities. The next one is the use of disposable bingo paper for Class II licensed bingos. And these are the large operations as spelled out by the Revenue Department. It requires that they use the disposable papers so that there is a record keeping provision and that is what the next two provisions in the amendment, it allows the department to establish by rule and regulation the procedures for utilization of the paper and also the specific construction and design of disposable bingo paper. This is a provision in the bill that virtually every operation of this size that falls under the Class II category currently uses. It allows for good record keeping, good tracking. What the department wants the ability to do is to be able to number the papers so that they can follow, know what the...the amount of paper so that they have a good idea of what the amount of revenue coming in is and they can check that against the books and the purchase orders of the organizations. This is one where I, personally, want to see how the department handles that so that there is as orderly a fashion as possible and so that the rules and regulations with regard to construction specifics is not too onerous with regard to what type and cost that the charitable organizations have to fall under but I think it is...it moves us in the right direction. The next one was the \$4,000 payout advertising that I spoke to already. The second to the last one on that page deals with the confidentiality that we talked about with regard to the reporting and the maintenance of records. And, lastly, is a provision that also was in one of the bills that was brought to the committee that deals with licensed or previously licensed organizations to lend, sell or donate bingo equipment to another organization. And this would be in addition to those purchases that had to be made through a licensed organization. So it allows, for example, when one organization's board goes down or their bingo machine breaks they can borrow it overnight. Currently, that's not allowed by law. This provision is something that the operators have asked for that the department is in total agreement with. With that, Mr. President, I would urge the adoption of the amendment.

PRESIDENT: Thank you. Senator Schmit, please, followed by Senator Smith. Oh, we have an amendment first. Mr. Clerk.

CLERK: Mr. President, Senator Hall would move to amend the Smith-Hall amendment.

PRESIDENT: Senator Hall, please, on the amendment to the amendment.

SENATOR HALL: Thank you, Mr. President, and members, the amendment has a provision in it that eliminates the local government option to authorize more than two bingo occasions in one facility within the...on the same premise within one week. That was put into law in order to allow folks in the rural area where there was one hall but there was two organizations that wanted to operate bingos. What's happened is that in Omaha...it's never been used, to my knowledge, request has never been authorized except for in Omaha. And the City Council in Omaha did that at the request of a very viable and good organization, Paralyzed Veterans Association, because they could not find a hall that they could operate in under the provisions that were in statute. So they gave them that waiver. My amendment to the bill would strike the elimination of that and what the bill allowed for that the amendment did was say that...grandfathered in that organization and struck it for the cities, basically, the cities of Lincoln and Omaha so that it would still have been in place for the rural areas. What I have done is...with this amendment to the amendment, is pull that back out, allow for it to currently exist as it does. I will bring that back in as a bill next year so that the City of Omaha can come down and testify. They have said that they have no intention of authorizing any other exemptions to this provision and would ask that it go away for this year so that they can talk about it next year when a bill is introduced. It's an amendment to the amendment that would eliminate that striking of that local exemption for the cities of Lincoln and Omaha as I offered originally in the amendment. I would urge the adoption of the amendment to the amendment.

PRESIDENT: Senator Schmit or Senator Smith, did either of you wish to speak to this amendment to the amendment? Okay. The question is the adoption of the Hall amendment to the amendment. All those in favor vote aye, opposed nay. If you care to vote, please do so. Record, Mr. Clerk, please.

ASSISTANT CLERK: 25 ayes, 0 nays on the Senator Hall amendment to the amendment, Mr. President.

PRESIDENT: Okay, the Hall amendment to the amendment is adopted. Now we're back to the amendment that we were with a little bit ago. Senator Schmit, did you wish to speak to that?

Senator Smith, did you wish to speak to the amendment?

SENATOR SMITH: Thank you, Mr. Chairman. I will just make a short statement. I would tell the body that we heard the provisions that have been included in this amendment in different legislative bills that were brought to the General Affairs Committee but we had such a...we wanted to deal with the lottery issue this year and, as you see, this bill has become such a huge bill because we have added a lot of things as far as amendments and we did take a lot of things out of other bills in committee and added it to the bill as I brought it to you to the floor. But I would tell you that we just didn't think we would have time to deal with all this too and I commend Senator Hall and his staff for taking the time to work all of this out and bring it to us. And, for that reason, I am supportive of it. That's all I need to say then on the end is that the last provision of the amendment which allows a licensed or a previously licensed organization to lend, sell or donate its bingo equipment and supplies to another licensed organization under certain circumstances is something that we felt needed to be addressed. So this way this is taken care of and this was a concern that we did really want to see addressed this session. Thank you.

PRESIDENT: Thank you. Senator Hall, would you like to close on the amendment, on the advancement of the amendment or adoption of the amendment?

SENATOR HALL: Mr. President, I would just again urge the adoption of the amendment as it's a compilation of a number of issues that, as Senator Smith pointed out, came before the General Affairs Committee. Some cleanup language, gives the Department of Revenue some...more record keeping authority with regard to the manufacturers and distributors, provides for some licensure on those same individuals and I think just does, basically, some housekeeping sorts of things. So I would urge adoption of the amendment.

PRESIDENT: The question is the adoption of the amendment. All those in favor vote aye, opposed nay. Senator Hall.

SENATOR HALL: Senator Nichol...or Mr. President, I mean, Lieutenant Governor Nichol...

PRESIDENT: You're making progress. We're both making progress.

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SENATOR HALL: All right.

PRESIDENT: Record, Mr. Clerk, please.

CLERK: 27 ayes, 0 nays on adoption of the amendment, Mr. President.

PRESIDENT: The amendment is adopted.

CLERK: Mr. President, Senator Abboud and Smith would move to amend.

PRESIDENT: Okay, Senator Smith, please.

SENATOR SMITH: Thank you, Mr. Chairman. Could I ask a question of the Clerk. Has this...this has not been printed? This amendment has not been printed?

CLERK: No...it has, Senator.

SENATOR SMITH: It has been printed. All right.

CLERK: Page 2156.

SENATOR SMITH: Okay, so this amendment has been printed. It's a very simple amendment. Basically, Senator Abboud brought it to me with a concern which it just simply states no lottery shall be conducted between the hours of 1:00 a.m. and 6:00 a.m. This makes it consistent with the existing liquor law and that's why I support it. Senator Abboud was apprised of the fact that there were parlors where they were holding lottery games that were open at four-thirty in the morning. And I guess I agree with him, I don't believe that is necessary. So what we're doing is just asking your support to make this consistent with the existing liquor law and I ask your support. Thank you.

PRESIDENT: Thank you. Senator Schmit, please. The question is the adoption of the Smith amendment. All those in favor vote aye, opposed nay. Please vote if you care to so that we may move along. Record, Mr. Clerk, please.

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of the amendment.

PRESIDENT: The amendment is adopted. May I introduce some guests, please. In the north balcony are guests of Senator Rod Johnson. We have 25 eighth grade students from Silver Creek School and their instructor. Would you folks please rise and be welcomed by the Legislature. Thank you for visiting us today. Mr. Clerk.

CLERK: Mr. President, Senator Schmit would move to amend the bill. (The Schmit amendment appears on page 2266 of the Legislative Journal.)

PRESIDENT: Senator Schmit, please.

SENATOR SCHMIT: Mr. President and members, this amendment is on...is it in the Journal, Mr. Clerk? I guess I handed it out but it is on page 53, I believe, of your amendment. And it strikes the words "until January 1, 1991". I will tell you why I am doing this and whatever the body wants to do is fine with me. But I think the committee and Senator Smith have tried very diligently to try to be equitable in the promulgation of this bill and the amendments. They have worked very hard. My concern, and I may not be valid but I would like to raise it on this floor anyway, my concern is that I know of one operation in Bellevue, Nebraska, which is not a keno operation, which will be put out of business by this amendment on January 1, 1991. Now I really have no problem if the City of Bellevue does not want to renew that license for that operation. But, as I said earlier, as long as we have opted to allow local entities to engage in lotteries, it would seem to me that this is one phase which could well be left up to the local entity, the city or the county. I would just like to say also we have talked at great length here about the equity of grandfathering in existing operations and I think that's all right also. I have great empathy for that point of view. But what we are doing is we are grandfathering in, to the best of my knowledge, all existing operations except one, possibly two. I do not know the details on the operation that Senator Conway referred to in his area. I do know the details on the operation in Bellevue and I believe that that business man has invested a considerable sum of money. He conducts an operation that I believe is at least on a par with any other kind of gambling operation and insofar as you can identify good gambling and bad gambling, I guess good gambling is where you win money and bad gambling is where you lose money and so that perhaps is the only identification system that you can really make of it. Regulated gambling is what we are trying

to achieve here and I believe that Senator Smith and the Department of Revenue are trying to do that. But I would just hope that we would allow the city to make the decision in this instance as to whether or not Mr. Clatterbuck is allowed to continue his operation. So often on this floor we find ourselves in the position where we place a burden upon an individual or upon a business. Most of the time, in my years here, we have attempted not to adversely impact an existing legal business which was established under existing law. There have been some rare occasions and I don't think those are the finest times of this Legislature. In this particular instance, this operation is existing today, it complements the rest of the business. It provides, I'm sure, a certain amount of revenue for both the business and the city, some for the state. It provides another avenue and whether that's good or bad, I don't know, but at least it was established under existing law. It was not established outside the law, it was established under existing law and I think it's unfair for us to, by statute, outlaw or eliminate an operation where a man has made an investment, without allowing him to recover that investment and I really don't know when he will recover it, if ever. But I think it's also inconsistent that we decide that one business shall stay in business and another shall get out of business since we really do not have the state lottery. If we had a state lottery, that would be our responsibility. But we have chosen to place that burden upon the...upon the cities, whether it's right or wrong. We do have a provision by the Department of Revenue but it's my understanding that that operation supervision is very limited. I do not know what they do to supervise the keno operations. It's kind of interesting that the keno has become a form of good gambling and is desirable and I hope that perhaps those entities who have adopted it find it a source of some revenue. But this operation is...this amendment, I want it understood, is simply for the benefit, as far as I know, Senator Conway might correct me or Senator Smith, as I drafted it it was for the benefit of a single business in Bellevue and I did not speak to the business man when I drew it. But I know of that existence and I think it would be equitable to adopt. If there...if it impacts a business in Senator Conway's district, perhaps he or Senator Smith can comment on it and explain why they chose to do this. I understand there are two separate kinds of lottery here and perhaps that is the reason why it was done in this manner. But I would just like to...I would like to ask a question also of Senator Smith at this time because the question has been raised with me several

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times. Senator Smith, is it possible for a city to contract, for example, with a nonprofit entity such as the VFW or the Legion to conduct the lottery for them or must the city contract with an individual entrepreneur?

SENATOR SMITH: Senator Schmit, first of all, they would have to have a license. The city would have to be licensed and then that so-called operator or that organization you're talking about would have to be licensed.

SENATOR SCHMIT: Yes, at David City, for example, which did vote and approve a lottery a number of years ago, could David City, for example, contract with the Legion Club in David City to conduct the lottery for them?

SENATOR SMITH: Are they...is David City, itself, conducting a lottery or has it been...is it licensed to conduct a lottery?

SENATOR SCHMIT: They have been licensed to conduct a lottery in the past. They are not at the present time conducting a lottery.

SENATOR SMITH: All right, they would, first of all, have to then if...I don't know...I don't know the situation in David City, did they...how many years ago was it?

SENATOR SCHMIT: They were...they were terminated on December 31, 1984.

SENATOR SMITH: They could then, if they decided that they wanted to institute a lottery they would have to, first of all, make that decision and then they could, if that other facility...or that other organization were licensed, they could contract with them.

SENATOR SCHMIT: Would that organization...that organization could be licensed by the state. Is that right?

SENATOR SMITH: Yes.

SENATOR SCHMIT: I see. All right, thank you very much. That really doesn't impact upon this amendment but I did want to ask that question at this time. Mr. President and members, I would ask the adoption of the amendment and I hope I made it clear. Perhaps Senator Conway or Senator Smith can elaborate further.

I believe it is a matter of equity, Mr. President. I do not believe that this body intentionally tries to impose hardship upon a business if they can avoid so and still maintain some degree of continuity. Since the emphasis, in this instance, is upon grandfathering existing businesses, it seems to me to be consistent to allow that business to continue, given the willing...the city's willingness to allow it to continue. If a city decides not to allow it to continue, they can, of course, not renew the contract.

PRESIDENT: Thank you. Senator Smith, you are next, but may I introduce some guests in the north balcony. Senator Conway has 25 eighth graders from Wakefield, Nebraska and Senator Conway says that the teacher's name really should be John Tarczan but it's John Torczon, I believe. And we did receive Easter eggs from Wakefield, Nebraska at Easter time which we all appreciate so we know that you're in the egg business up there. Would you folks please stand and be recognized by the Legislature. Thank you all for visiting us today. Senator Smith, please.

SENATOR SMITH: Thank you, Mr. Chairman. Members of the body and Senator Schmit, I rise to oppose your amendment, Senator Schmit. I believe that we have already addressed this issue in Bellevue by grandfathering that operation in for the duration of the contract. We're allowing them to continue even though it's outside what we're going to have as the requirements of this bill when it becomes law. I don't believe that...for one thing, this definitely does not meet the requirements that we're going to set out in LB 767 because what you're seeing there in that operation is two dice games and a roulette wheel. Is that how you pronounce it, roulette wheel? Roulette wheel. Well, I have some relatives that end with "yette". And they're "ette" too. Okay, anyway, I don't believe that the other communities across the state would look at this as being equitable if, in fact, we pass a piece of legislation and allow one community, one operator to continue to operate outside the confines of the law, having other kinds of things that they're offering as gambling devices than other communities are going to be allowed and that's really the point I'm trying to make here. That would be allowing one community a special privilege, in fact, one operator across the state special privileges. And I guess that the point was raised a little bit ago about some other amendment perhaps being unconstitutional and I'm not sure that you could ever consider this to be constitutional. I realize that this operator, if he decided to try to renew his contract, would have

to change what it is he is offering and it would be at a cost to himself. But I can't...I just can't support an amendment that's going to say we should exempt this one operator across the State of Nebraska and say that he never has to comply with the law that we're setting forth in LB 767. As I said, we are already grandfathering him in as we are other businesses that are in operation at this point in time to allow them to continue to run until the end of their contract. And, with that, I would just I'm opposed to the Schmit amendment and I ask others of you on the floor to vote against it. Thank you.

PRESIDENT: Thank you. Senator Conway, please, followed by Senator Hartnett.

SENATOR CONWAY: Mr. President and members, I rise in support of Senator Schmit's amendment, at least conceptually. I'm not sure that this will absolutely accomplish what he had in mind in the sense that in discussion we're talking about the extent to which a renewed contract may or may not be...follow the same terms and would fall into that. But we are looking at rather extensive investments on the part of a couple of communities that had the foresight and the willingness to move forward with these particular programs and because of that expense we are talking about a relatively limited period of time. And by taking out that expiration date of those contracts, I think that would enhance the opportunity for those. Possibly, it would take additional language to really accomplish what he has in mind. But I am going to support the concept because I think any time that we can extend and better reclaim the fixed costs that are...that are involved in these particular games, I believe Senator Hartnett's schemes, I guess we identify them in this particular provision, are somewhat different than those that we have but when you look at the keno and/or the scratch ticket situation, we are talking about extensive investments on the part of these communities. They are being well accepted in those communities, generating revenue that is being used for community betterment and the like and I think any time that we can have an extended period of time to recapture those particular costs, that would behoove the people who are involved. The fact that there's only two communities involved at this point maybe just simply reflects the fact that these were communities that have been active for a long period of time, recognizing the value of this particular activity in their communities and, short of that, possibly more communities would have been involved if they thought that there was any

consistency in the legislation we have had over the lottery for many, many years. Many communities are apprehensive, even though they would desire such a thing, to have these costs and then have the Legislature pick up a fickle attitude every year, constantly changing the rules of the game and, therefore, possibly not allowing them to recover the fixed costs for those short periods of time. So, conceptually at least, I will be supporting the Schmit amendment and wish possibly that it was designed in such a way that I would be comfortable that it would really be able to hold up in a court of law if it were to be challenged by simply striking that date.

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

SENATOR HARTNETT: Mr. President and members of the body, I think I simply rise to provide, since it's in my community, some informational information, I guess. Some information for the body. The keno...the operation at the Crown Court that Senator Schmit is talking about has been in effect since January 21, 1988 and the contract with the city runs out in, as the bill has stated, in 1991, January 1, 1991, and it's probably up to the city again whether they want to do it. The revenue from...as I say, it's a small operation, the revenue probably for the city, in the Crown Court, probably brings in as much revenue for the city in one year what the other operation brings in in a month. So I think that I can see where Senator Schmit is coming from...or coming from and I will probably vote to support it.

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

SENATOR NELSON: Mr. Speaker, maybe Mr..., well, Senator Conway, would you answer a question, please.

PRESIDENT: Senator Conway, would you respond, please.

SENATOR NELSON: You spoke on this first and I addressed the...again the elimination or whether or not we grandfather someone in or not. I have a little problem. I know we're talking about one industry but when we start making bills and passing statutes and I know none of us like to go down to defeat or have a reverse in our income and so on, but I remember that Senator Lamb, last session, I believe, or the session before, he had a bill that would have provided a driver's license for an

individual that had lost part of his eyesight. You know, we just go down the line one after the other and if we start making provisions that would open the door for one individual or one business, I have a little problem in our passing that type of legislation. And the way I read it, when it strikes it it just open-ends it.

SENATOR CONWAY: I'm not totally sure what the question is, Senator Nelson, but...

SENATOR NELSON: Well, my question is, are you sure that this is just not...by striking that date that we're not just leaving it open-ended, wide open then?

SENATOR CONWAY: I think to some extent...

SENATOR NELSON: Or that others will find an excuse to come in then underneath it?

SENATOR CONWAY: Well, any time you have a grandfather provision you're talking about a previous situation and I think as we talk about grandfathering one of the problems that we have had or why we do the grandfathering situation is that it's for future situations and we had no intentions of disrupting what had been in place and what was operating and then...of that local community's desires but we don't want to expand it and that's why we change the law and allow the grandfather not to disrupt those that are already in place. There are things that for public purpose we go back and say, we're not going to let you do that anymore. But I think as we're moving towards the sensitivity to these communities that that's why we grandfather certain people for certain things.

SENATOR NELSON: Sure, but why can't we leave the date in so that that's it? They know within two years from now that either they, you know, they have to live by the same rules and regulations as everyone else. I mean, I have a little problem with special legislation for special people or special interests. Of course, it happens all the time but I have a problem with that.

SENATOR CONWAY: Well, in my case and maybe in your case since the special people are my people and not your people it's easier for you to address than for me.

SENATOR NELSON: You probably have the right answers. Thank you.

PRESIDENT: Senator Schmit, please.

SENATOR SCHMIT: Well, Mr. President and members, in response to Senator Smith's...or, pardon me, not Senator Smith, Senator Nelson's concerns, first of all, as Senator Conway indicated, grandfathering an existing operation refers to that which is already in existence, which in the case of the Crown Court operation is already there. It doesn't oper up anything else. It had to be an existing operation according to the amendments offered by March 1 of '89 and they were in operation. Second, and I think, as Senator Hartnett has pointed out, this is a small operation. It's primarily entertainment and this ought to be one of the...or two of the redeeming factors in this operation. We have been told...we just...we just heard a little while ago from Senator Crosby where she said that gambling...you know, bingo used to be fun. You played for a coffee pot. Well, in this instance, it has been explained by Senator Hartnett, they don't play for a lot of money. They don't win a lot of money, lose a lot of money, it's entertainment. And maybe that ought to be a redeeming quality if there is a redeeming quality in this operation. Most importantly, of course, is that this individual isn't influential. He's not down here beating on your door or asking for anything. He's not going to try to fight the Legislature. But I want to call attention to something, originally the proposal was to outlaw keno. It was to outlaw keno. That was what the original intent was of this bill. All of a sudden, it was realized that there would be too much opposition to an attempt to try to outlaw keno so we didn't any longer try to outlaw keno. Then, of course, came the question, but what can we do? There was also a proposal to outlaw pickles. As had been explained earlier on this floor, can't outlaw pickles anymore because pickles have proliferated to the extent that there is too much support for them. The people have decided they wanted to adopt pickles which you and I know are difficult, at very best, to regulate and, at the worst, are totally unmanageable. In this instance, you have an operation which, to my knowledge, has never violated the law, is totally manageable, is totally under the jurisdiction of the state, was established legally, was established legally. I believe, Senator Hartnett and Senator Conway have indicated, some of the...of the ambivalence about these...about this type of an operation is due, in fact, that each year the Legislature

chooses to get their dipper in the bucket again and decide what they're going to do and how they're going to do it. That's our responsibility, no objection to that. But it places a business man, such as this particular one, in a very undesirable position because, as of the time that he went into the business, he was legal, he expended a considerable sum of money. He went before the city and was approved by the city. The city fathers approved him. If, on January...whatever time it is, 1st, 1991, the city fathers decide not to renew his contract, that's their prerogative. But, in any case, in any case, the State of Nebraska ought not to take that responsibility, in my opinion. Now, if you want to really get tough on gambling, then maybe you ought to say anything over that. You know, we did that with the bookies not...some time ago. We said, you can't handle, I think, over \$1,500 a day or you become a bad bookie. If you're under 1,500, you're a good bookie. Well, with the passage of simulcasting, some of my informers tell me that we have just gotten rid of...or at least interstate simulcasting, we just got rid of the last haven for bookies on horses, that still leaves them wide open, of course, for betting on sports, of course, which no one would ever concede takes place in this state. But if we were to put a limit on that, it would probably seriously dampen the economy of this state. The point I want to make is this,...

PRESIDENT: One minute.

SENATOR SCHMIT: ...we talk about big and little. Little gambling is supposed to be good, big gambling is bad. Then in this case you've got little gambling, it's not a big operation, it's a little operation. The guy established it legally. He didn't ask me to do this. I just thought I would try to help out a business man who I think really deserves the help. If the city wants to put him out of business in a couple years, that's their responsibility. So that's where I stand, Mr. President.

PRESIDENT: Thank you. Senator Smith, please.

SENATOR SMITH: Thank you, Mr. Chairman. Members of the body, I just stand to reiterate what I said earlier. This operation that we're talking about is already grandfathered in for the duration of the contract which they have with Bellevue. Senator Schmit's amendment would allow one business in Bellevue to permanently be able to continue games that will be outside the limits of the piece of legislation which we're trying to pass

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into law here. We would be allowing dice games and roulette wheels. Said it right that time. And I guess that I would say that I can't imagine that any other community or any operator across the State of Nebraska would be supportive of this. And I would just again stress and more strongly now than I did the last time, I don't believe that this could be considered to be constitutional. The courts don't allow separate classifications like this. There would be lack of equal protection here for all the businesses that we're talking about, Senator Schmit, and that's why I don't believe that it could be constitutional. We couldn't do this on a permanent basis. That's my belief anyway. I realize this business man is going to have, you know, a loss because of the equipment and that sort of thing but, unfortunately, this has to happen if we're going to make this be consistent for all operators in all communities across the state. So, for that reason, I can't support the amendment.

PRESIDENT: Thank you. Senator Schmit, would you like to close, please, on your amendment.

SENATOR SCHMIT: Well, Mr. President and members, please do not vote against this amendment...because you don't think...

PRESIDENT: Senator Schmit. Senator Schmit. (Gavel.) Can we have it a little quieter so we can hear the speakers, please. Thank you.

SENATOR SCHMIT: ...thank you...it is constitutional. Go back about almost 20 years to the time that the State of Nebraska grandfathered in what were existing multibank holding companies. Norwest Bank system was allowed to continue to operate. Nebraska bankers became incensed that this was going to destroy banking. Took 20 years before we finally turned it around, or 25, but for a period of time Nebraska bankers were successful in saying, well, we can't have any more multibank holding companies but we did grandfather in the existing ones. Senator Smith, just one quick question because I don't want to run out of time. But was this operation legal at the time it was established? You would assume it was. Mr. President and members, I think that one small operation, as described by Mr. Hartnett, Senator Hartnett, is not going to seriously impugn the integrity of the grandiose lottery system of the State of Nebraska. It certainly has not caused any problems so far. I don't think it will. It's a small operation. What we're doing is we're saying that in this instance because this happened to be a small operator,

we're saying, go ahead. Now if it were my church, Senator Smith, I will guarantee you what we would do. We would grandfather my church into it because no one wants to raise the ire of all of us Catholics. But in this instance it's just one little old motel and restaurant operator down there and so we say, what the heck, shove old Charlie aside. I don't think that's what this Legislature wants to do. We do enough of that inadvertently, ladies and gentlemen, let us not do it directly. The city can deal with that problem if they have to at the time if they want to when the time comes. But I think we ought to allow it up to the city. I don't think the state should intentionally deprive a man. Talk about due process, Senator, I think that Mr. Clatterbuck has regressed under due process and the rest of those procedures. I don't believe in that and I don't believe in proceeding in this manner. I believe that we ought to adopt the amendment.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: You have heard the closing and the question is the adoption of the Schmit amendment to LB 767. All in favor vote aye, opposed nay. Voting on the Schmit amendment. Have you all voted? Senator Schmit.

SENATOR SCHMIT: I would like to ask for a call of the house, please, and a roll call vote.

SPEAKER BARRETT: Thank you. The question is, shall the house go under call? Those in favor vote aye, opposed nay. Record, please.

CLERK: 17 ayes, 1 nay to go under call, Mr. President.

SPEAKER BARRETT: The house is under call. Members, please return to your seats and record your presence. Unauthorized personnel leave the floor. Members off the floor, please return and record your presence. Senator Moore, please. Senator Goodrich, Senator McFarland, the house is under call. Senator Wehrbein. Senator Pirsch, please, the house is under call. Senator Pirsch, the house is under call. Senator McFarland, the house is under call. Senator Chambers, Senator Rod Johnson, please report to the chamber. Senators Rod Johnson and Pirsch, the house is under call. Senator Schmit, may we proceed. Excuse me, all present and accounted for. Roll call vote has been requested in reverse order and the question is the Schmit

amendment. Mr. Clerk, proceed.

CLERK: (Roll call vote read. See pages 2266-67 of the Legislative Journal.) 20 ayes, 22 nays, Mr. President.

SPEAKER BARRETT: The motion fails. The call is raised. The next order.

CLERK: Mr. President, Senator Hall would move to amend. (The Hall amendment appears on page 2267 of the Legislative Journal.)

SENATOR HALL: Thank you, Mr. President, and members, this is just a clarifying amendment to the amendment that I offered earlier. All it does is add that when we talk about the limitation with regard to the advertising we add the language in there that it would be a bingo operation conducted by a licensed organization and that's the extent of the amendment. So I would urge the adoption of the amendment. Thank you.

SPEAKER BARRETT: Thank you. Discussion on the amendment offered by Senator Hall. Any questions? Senator Smith.

SENATOR SMITH: Thank you, Mr. President. I would like to ask Senator Hall, can you give us a little more explanation than that, Senator Hall, please.

SPEAKER BARRETT: Senator Hall.

SENATOR HALL: Senator Smith, if I could, I would. (Laughter.) There...

SENATOR SMITH: Where...which...where are you alluding to here?

SENATOR HALL: Sure, okay, Jackie, this is the part that deals with the advertising limitation that we put in there on the \$4,000.

SENATOR SMITH: Okay.

SENATOR HALL: Okay. All we do...to make sure that it applies to the individuals that we were looking to have it applied to, we add the language "conducted by a licensed organization", after the term "occasions".

SENATOR SMITH: Do you have any reason? Can you explain to us

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why it's needed?

SENATOR HALL: I just don't want to have it to apply to...so there's clear and complete understanding as to what the definition involves.

SENATOR SMITH: Is this a "trust me"?

SENATOR HALL: No. No, it's just very straightforward. I...

SENATOR SMITH: Very straightforward. All right, I guess I will support you then if it's straightforward.

SENATOR HALL: Thank you.

SENATOR SMITH: Thank you.

SPEAKER BARRETT: Anything further? If not, those in favor of the adoption of the Hall amendment to 767 vote aye, opposed nay. Record, please.

CLERK: 27 ayes, 0 nays, Mr. President, on adoption of Senator Hall's amendment.

SPEAKER BARRETT: The amendment is adopted.

CLERK: Mr. President, Senator Smith would move to amend by adding the severability clause.

SPEAKER BARRETT: Senator Smith, please.

SENATOR SMITH: Thank you, Mr. President. One more time, I hope this is the last amendment. What I simply am asking in this amendment is to include the severability clause. And I would ask for the body's support in doing that. Thank you.

SPEAKER BARRETT: Any discussion? If not, those in favor of the adoption of the amendment offered by Senator Smith vote aye, opposed nay. Please record.

CLERK: 32 ayes, 0 nays, Mr. President, on adoption of Senator Smith's amendment.

SPEAKER BARRETT: The amendment is adopted.

CLERK: Mr. President, Senator Schmit would move to amend. (The Schmit amendment appears on page 2267 of the Legislative Journal.)

SPEAKER BARRETT: Senator Schmit, please.

SENATOR SCHMIT: Well, Mr. President and members, I offer this amendment because I believe that most of us here didn't even realize that the bill will provide for a substantial increase in the amount of revenue that will be collected by the operator. And I think that that ought not to go without some sort of comment. It is sort of ironic to me that the same body that would say, no, we're going to put out of business a small individual operator who, for some reason or another, does not measure up to certain specifications that we would then, without any debate, increase by 50 percent the amount of revenue the operator can receive for operating the keno operation. Now that's a pretty healthy increase even by these standards. And I would have to suggest that perhaps these standards become somewhat liberal from time to time. I would like to also call your attention, if you would take note, that the language allows an exemption for license fees paid to the department, audit or legal expenses incurred by the county, city or village which relate directly to the conduct of operating such a lottery. Ladies and gentlemen, I think you will find that you will come back in future years and strike that language. Senator Nelson was concerned about open-ended language before and she is right. Frequently, we do this and we do so inadvertently but we are providing here, we are allowing here for expenses far and above what of what a 15 percent limitation would indicate. And, secondly, the 15 percent which we allow here is a 50 percent increase over the 10 percent that had been allowed. Now if you want to do that, that's fine with me. But I think you must remember that the existing systems operated very successfully with a 10 percent limitation. Now do you want to make money for the operator or do you want to make it for the entity? I don't really know what the purpose is of the bill. I would suggest...and I don't know who suggested the 15 percent, if I were the operator, I would like it fine, and I may just be calling attention here to something which others would prefer not to have mentioned. But a 50 percent increase in the amount of money allowed to go for operation is a rather healthy increase. Over the years, that 10 percent number has been suggested that it ought to be lowered. Sometimes it was debated, sometimes it was not but it has remained about

10 percent for most of the time. But I would just like to ask Senator Smith a question if she would yield and if she would tell me where the impetus came for the increase from 10 to 15 percent and what the basis for it is and if we have some factual information as to why it needs to be at 15 percent.

SENATOR SMITH: Sure, Senator Schmit, I will be glad to. It came from the Department of Revenue and from some other operators that we visited with in the state as a committee, that they simply were not meeting the costs. Their costs were exceeding what they were being allowed. But I'm going to tell you something. I'm going to support your amendment, I think.

SENATOR SCHMIT: Well, thank you, Senator Smith, it's very reassuring to me to have your support on an amendment. I wish that you would have supported me 10 days into the session rather than 10 days from the end of the session but it's welcome to have that support at any time and so I do appreciate it very much. It's nice that we have a meeting of the minds. I don't know whether it's right or not but I could have gone down more, could have raised it some, I just wanted to discuss it. Was it your indication, Senator, that...from the Department of Revenue that it needed to go to 15 percent?

SENATOR SMITH: Senator Schmit, there were some considerations that were taken in there. I mentioned to you about the cost.

SENATOR SCHMIT: Yes.

SENATOR SMITH: With, for instance, a keno operation there is going to be an increased cost there for new equipment, computerized and so on, and this would add a lot to the operator costs and that was one of the reasons that we were given this concern and asked to increase to 15 percent.

SENATOR SCHMIT: Uh-huh.

SENATOR SMITH: And, of course, you know that that's negotiable with the city. It's up to 15 percent and it can be negotiated.

SENATOR SCHMIT: I see. Well, I would expect that that will be negotiated with some degree of alacrity by the cities and, of course, it will depend somewhat upon the cost of the equipment. But I do think that it is a pretty healthy increase. I would not be opposed to coming back in another year, if necessary, and

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adjusting it some more. But I think 14 percent would be adequate at this time and I wanted to...but I wanted to discuss it. I also wanted to discuss with you, Senator Smith, the rest of the language relative to license fees and the audit or legal expenses. In other words, the license fee paid by the operator would be over and above the 15 percent but the fees, the legal fees, audits, etcetera, incurred by the city would also be exempted from the 15 percent. Is that right?

SENATOR SMITH: Correct.

SENATOR SCHMIT: So that the 15...the 14 percent, if this amendment should succeed, the 14 percent would then be paid to the operator and the city could pay their legal expenses out of their portion without any concern for the cost that might be involved.

SENATOR SMITH: I believe you are correct on that. Senator Schmit, I would like to ask you a question if I might on your time...

SENATOR SCHMIT: Surely.

SENATOR SMITH: ...about your amendment. Since I don't have a copy of it here, how did you word that? Did you say...did you leave it as we did that only instead of saying up to 15 percent, you are saying up to 14 percent?

SENATOR SCHMIT: I just struck the 15 and inserted 14, Senator, yes.

SENATOR SMITH: Okay, all right, so, in other words, when they negotiate that with the city they could receive up to 14 percent. Okay, thanks.

SENATOR SCHMIT: It would have been sneaky of me to have made it mandatory at 14.

SENATOR SMITH: Pardon?

SENATOR SCHMIT: It would have been sneaky of me, Senator, to have made it mandatory at 14. Mr. President, with Senator Smith's support at this time, I will not speak anymore.

SPEAKER BARRETT: Thank you. Senator Smith, your light is on.

Do you care to speak anymore? Thank you. Senator Hartnett.

SENATOR HARTNETT: Mr. Speaker and members of the body, I think I will rise to support the amendment also. I think that...I think the cities themselves can limit what the...what the operator gets and so I think whether it's 15 percent or 14 percent, I think we're...you know, not a...not a big deal because the city...the city still has...the cities still have...the cities that have the lottery still have the control. So, with that, I would support the amendment. Thank you.

SPEAKER BARRETT: Thank you. Any other discussion? There are no other lights on. Senator Schmit, anything further?

SENATOR SCHMIT: I would just ask for the support of the amendment, Mr. President.

SPEAKER BARRETT: Thank you. The question is the adoption of the Schmit amendment to LB 767. Those in favor vote aye, opposed nay. Record, please.

CLERK: 27 ayes, 1 nay, Mr. President, on adoption of Senator Schmit's amendment.

SPEAKER BARRETT: The amendment is adopted.

CLERK: Senator Lynch would move to amend, Mr. President. (The Lynch amendment appears on page 2268 of the Legislative Journal.)

SPEAKER BARRETT: Senator Lynch.

SENATOR LYNCH: Mr. President and members, I apologize to Senator Schmit and anyone involved with this legislation. I just was struck with this thought a few days ago. Hasn't been published in the Journal. What it simply does it restricts the sale of lottery sales to the same and from the same facilities now that pickles can be sold from, namely, number one, bars; number two, off-sale liquor stores; and in the case of lotteries the offices of the political subdivisions, wherever they might be and however many they might be. It's about as simple as it is. I thought it might be better for enforcement purposes. It might be a form of equity as it applies to gambling and those people that are involved with pickles and with lottery sales as well. With that, I will try to answer any questions you might

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have.

SPEAKER BARRETT: Thank you. Before proceeding, Senator Lowell Johnson has announced 42 fourth graders from Howard Elementary School in Fremont with their teachers. Would you folks please wave as you depart and be welcomed by the Legislature. Thank you. We're pleased you could be with us. Senator Smith, discussion on the Lynch amendment.

SENATOR SMITH: Thank you, Mr. President. I would like to ask Senator Lynch, if I might...Senator Lynch...

SPEAKER BARRETT: Senator Lynch.

SENATOR SMITH: ...I have no copy of this amendment either and so I would like to have you read it for me in its entirety if you would. And then I would ask if we could get a copy of it.

SENATOR LYNCH: Yeah, it's a couple pages long. It says...

SENATOR SMITH: Oh, then maybe I don't want you to read it in its entirety on my time.

SENATOR LYNCH: Oh, no, no, no. Just...it's only 14 pages long.

SENATOR SMITH: Okay, 14 pages...

SENATOR LYNCH: No, just 14 lines, I'm sorry.

SENATOR SMITH: Okay.

SENATOR LYNCH: No it's a two-pager, one and a half pager. It says insert the new section, Section 47. "(1) Any sole proprietorship, partnership or corporation, which holds a retailer's license for consumption on the premises or a bottle club license issued by the Nebraska Liquor Control Commission pursuant to the Nebraska Liquor Control Act or which holds a retailer's license for consumption off the premises so long as seventy-five percent of such retailer's revenue on an annual basis is received from the sale of alcoholic liquor, may apply for a lottery operator's license to sell individual lottery tickets as opportunities to participate in a lottery. The burden shall be on any licensee who holds an off-premises license to show that the licensee's sales revenue meets such percentage requirement. (2) Lottery tickets shall only be sold

by a licensed lottery operator or at offices of the political subdivision or political subdivisions conducting the lottery". Then on page 68, after line 16 insert Section 6, paragraph (6). "No lottery operator shall generate revenue from the sale of individual lottery tickets which exceeds the revenue generated from other retail sales on an annual basis. For purposes of this section, retail sales shall not include revenue generated from other charitable gaming activities authorized by Chapter 9. The department shall prescribe by rule and regulation a report to be submitted to the department by the lottery operator which will allow the department to determine compliance with this subsection". I'm sorry I didn't have a copy for you, Senator Smith.

SENATOR SMITH: That's all right. The only thing is, Senator Lynch, I would just state that I would not be able to support your amendment at this time because I don't really understand the implications of this except for the fact that it seems to me that what this would do is restrict communities to...in other words, have like keno in bars and that sort...those sorts of places only. Is that what you're saying?

SENATOR LYNCH: I'm not really sure. Keno in bars.

SENATOR SMITH: Because of what you're...what you're limiting this to.

SENATOR LYNCH: It's a lottery...what it restricts the lottery opportunities to are the same facilities that we restrict pickle cards to. So, yes, if all you can do is sell pickles in bars and that's in bars, you could also do lotteries.

SENATOR SMITH: On the other hand, if you allowed pickle cards to be distributed at, for instance, in a grocery store.

SENATOR LYNCH: Well, they're not allowed in grocery stores.

SENATOR SMITH: Well, I mean, just say that...in other words, I'm just naming some different places. In other words, wherever pickle cards are distributed you can have...

SENATOR LYNCH: The only places pickle...I'm sorry, didn't mean to interrupt you, Senator Smith.

SENATOR SMITH: That's all right, I'm just asking some questions

here and trying to understand. I guess my concern is that we have given...what we're doing is giving local government local control over a local lottery and I wouldn't want to see something like this placed in the law which tells them where they're going to put those...have their points where those are going to be held, I think. The state has made a policy decision as to where charitable gaming should be conducted. I think that we should allow the local then the control over the local lottery, at least in this area. And I won't be able to support it, Senator Lynch. Maybe if I had seen it before or if I could have time to digest it, I might see something different about it. But right now this is what I think I'm seeing in the amendment. So I would oppose it.

SPEAKER BARRETT: Senator Withem.

SENATOR WITHEM: Yes, Mr. Speaker and members of the Legislature, the Lynch amendment has some appeal on its surface and it's the type of amendment that could easily be adopted and the bill passed on over to Final Reading and nobody notice it until the enforcement starts to take place. And I don't know at this point but my guess is a number of city lotteries where the city contracts with a contractor and the contractor then establishes a facility in which people go in and play the lottery that those would become illegal under this. At least, that's what my theory is and that's the reason I'm not going to be supporting it. My home community...one of my home communities of LaVista last year did, in fact, pass a lottery. It has not been established. Probably when they set it up they could comply with this new requirement. I'm wondering though about the City of Ralston to the north. I happen to be familiar with this one because they're keno operation is in the same office complex where my office takes place and other than the fact that I can never find a place to park to get into my office anymore since that established, I don't think there are any problems with it. That place, I'm quite certain, does not have any type of liquor license nor does it achieve a particular percentage of its revenue. So I think...I think what we've done with this bill, it appears to me, Senator Smith, I've not paid as much attention as I should have but it appears to me as though we've been very, very careful throughout the passage of this bill that we not infringe on existing sort of operations that are out there. I'm afraid the Lynch amendment would probably do that. Now I tend to agree with Senator Lynch's what I think are his frustrations with the requirements that we

passed last year restricting where pickle cards can be sold. I thought that that was a rather silly sort of prohibition. I believe I opposed it at that time and would be supportive of attempts to change that particular pickle card requirement but I would not be supportive of passing an amendment like this that even though on its surface sounds good for consistency's sake but would tend to impact upon facilities that may already be existing or those that may be planned. I would hate to see us do that without a lot more careful study and without the Legislature knowing who it's impacting on and who it's not impacting on. So even though I, you know, share the frustration with the what I thought was overly restrictive requirements on selling the pickles last year, do not think just because the Legislature made one mistake last year that we need to magnify that mistake and apply it onto other operations. So I will not be supporting Senator Lynch's amendment.

SPEAKER BARRETT: Senator Hartnett, followed by Senator Schmit.

SENATOR HARTNETT: Mr. Speaker and members of the body, I also will not support this amendment. I think we're mixing pickles with...with...with lotteries, we're mixing up maybe two different...two different things and I think that maybe some of the...as I think about my community, I guess, and we've been in the lottery business and I think it's well run by the two places that we have and I think that Senator Schmit had an amendment earlier that would...with the...with the second operation but I think that...I think we're restricting that and maybe, you know, maybe I think that we have had some...with the pickle operation that Senator Lynch...and I can see his frustration, as Senator Withem has said that I think that we maybe in a...maybe we should give as we're doing with the lottery business, give the local communities more say in what we do with it. But I think that, at this time, I think we're...we're looking at lotteries different than with pickles and so for that reason I would oppose Senator Lynch's amendment.

SPEAKER BARRETT: Senator Schmit.

SENATOR SCHMIT: Well, Senator Withem correctly identified, I believe, the problem with the amendment although I do sympathize with what Senator Lynch is trying to do and I think that we will probably see some attempts to liberalize some of the language in time to come. We seem to be consistent, at least, in that regard and Senator Withem mentioned the fact that we sometimes

do something which we don't intend to do and certainly we do that frequently, not just on lottery legislation. But I would just suggest that the passage of the amendment in the present form would probably get us into some of the same difficulty that we did get into with the pickle business because whether we like it or not, and it depends upon what point of view you're in, the revenue from the gambling may exceed the revenue from the other retail businesses by a substantial amount. I think, however, though...and I would hope that maybe next year we will come back and the body might have a change of heart on the Clatterbuck amendment and decide not to clamp down quite so hard on the little guy. Maybe if the Department of Revenue has enough other business to do, they won't be so concerned about riding shotgun on one legitimate business in Bellevue. But I think that what Senator Lynch is attempting to do is to address a problem which is one which this body ought to be concerned about and that is equity, the equity that would exist between various retail enterprises by allowing them to participate to the maximum extent possible in a lottery operation. Whether you like it or not, those operations are growing and to the extent that we broaden the participation it, of course, makes it possible for more people to participate but, to the extent that we limit it, it provides a certain business advantage for certain individuals or entities and denies that advantage to others. A member of the body just came to me this morning and suggested that simulcasting certainly ought to be amended so that those persons who now have to drive 150 or 200 miles to a race track could enjoy the multitude of benefits that have accrued from simulcasting, if you read the paper the last few days, and do not have to wear out their automobile getting to a licensed race track. I would guess that's probably enough to upset Scott for this morning but, in any case, I think that Senator Lynch has actually pinpointed something which ought to be addressed next year and I'm sure Senator Smith and her committee will probably take a look at it. Thank you.

SPEAKER BARRETT: Senator Smith.

SENATOR SMITH: I think I have already said about everything I need to say and I would just say that if that's a concern and an issue that needs to be brought to the committee, I would be happy for us to take a look at it, Senator Lynch.

SPEAKER BARRETT: Thank you. Senator Lynch, would you care to close?

SENATOR LYNCH: Thank you, Mr. President, and members, think about gambling a minute. We have got high class gambling, that's thoroughbred horse racing. We've got blessed gambling, that's bingo. You've got middle-of-the-road gambling, that's lottery and keno. And then you're just relegated to low class gambling, pickles, because that's little groups like my little old Little Vikes out there that takes care of a lot of little kids that are going to have a hell of a time making it now. And then last but not least you've got the secret gambling and that's the bookies and the football and baseball and the coaches and all the rest of those folks. So I offered this amendment because I just wanted to draw your attention to the fact that what are we trying to prove around here? You know, if you want to have some idea about who should do what kind of gambling and who will profit from it, give those folks that have the only opportunity to share in whatever good, if any, can come from this sort of activity the same chance as others, not just because they can afford to go to a race track or can afford to go to a bookie or too dumb to know the difference. And that's about it. I want to bring it to your attention and let you know that it won't go away. But we can't sit back and smugly think that by developing some regulations that control some more than others we're serving some good purpose because we're not. The equity in this issue is obvious and obviously unfair. So I would respectfully suggest that this is something you have to take up. I think we're going to have to change what now exists. I think an awful lot of work has to be done. I'm really disappointed that the people involved with these issues haven't given it more in depth consideration and study. And, with that, I will come back again with other amendments on another issue next year but we have to take a look at that. Remember what I said and I would respectfully withdraw the amendment.

SPEAKER BARRETT: Thank you. You have heard the closing and the question is the...I'm sorry, it is withdrawn.

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

SPEAKER BARRETT: Senator Smith.

SENATOR SMITH: Thank you, Mr. President. I would just say one thing and that is something in response to Senator Lynch and I'm doing this on behalf of Senator Kristensen. He asks the question, Senator Lynch, where does farming fit into the

gambling scheme that you were talking about? With plumbers, he says. Well, if it's plumbers, it's high class. And I would with that, then, just ask the body to move the bill.

SPEAKER BARRETT: Discussion on the advancement of 767, Senator Schmit, Senator Rod Johnson on deck.

SENATOR SCHMIT: Mr. President and members, I think Senator Lynch accurately reflected a pretty good synopsis of the situation as it exists today relative to gambling. I could not allow a little bit of an opportunity to pass by, but I would suggest that maybe the General Affairs Committee ought to take a look at how the State of Iowa regulates their lottery and some of their gambling. I believe they have a very commendable situation in place. They have a very tight system. It is well regulated. It is well controlled. It is licensed and I believe that it has a maximum amount of return to the public entity, in this case, the state, and perhaps the lowest cost operation of anything you can find. I think that Senator Lynch also touched perhaps upon something which is a little sensitive, and that is the vast amount of illegal gambling that still persists in this state, but, of course, we choose to ignore that and will continue to do so, I am sure, unless Senator Chambers happens to be successful with his proposal for sport betting. It is kind of interesting, of course, and I just want to reminisce a bit because I mentioned earlier the success of simulcasting, and I read the press with some substantial amount of interest as a result of the first day of simulcasting, interstate simulcasting on the Kentucky Derby, and without exception, the success was described in glowing terms and it always referred to the amount of the handle. Now as Senator Lynch has pointed out, the thoroughbred racing is good gambling, and so if you bet \$2.5 million or 2.3 or 4 million dollars on a race horse or a horse race, that is good gambling and it is a success. Now if you happen to bet that on pickles, I don't know if it is or not. If you happen to bet it on a lottery, I don't know either. We just this morning decided that small gambling in the case of a particular type of lottery operation was not good. I don't know if it is small gambling, or a small operation, or a less influential individual, but I think that the time will come when there will be attempts made, and maybe we will have to go through another cycle in horse racing, maybe as the competition from surrounding states becomes more intense and as horse racing, if it ever gets into difficulty again, and I assume it will unless thoroughbred racing conforms to the facts of life

and to the times, it will find itself under more and more pressure. And so I will make a prediction, just as simulcasting intrastate and interstate was opposed a number of years ago when we first proposed it on this floor, and then finally was embraced and finally was determined to be the savior of thoroughbred racing, so one day we will find additional outlets for wagering on horses. We may even expand the opportunities for individuals to participate in various types of gambling at the racetrack. I know one track, I think Senator Conway's track up there, even goes so far as to sell pickles. I don't know what else they might engage in, but I think that we are going to see some of that, and it will be most interesting to determine how it is handled. Ladies and gentlemen, I have said it on the floor many times but I will say it again that you have gambling with you and that we ought to look at those states which have been most successful in regulation, licensure, and control and try to emulate those, rather than to carve out our own little system as we go along.

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: I mentioned a couple of little loopholes in this bill. I would suggest that we are going to come back here next year and try to plug those up, but it is going to be very difficult because we ought to look at it on a comprehensive basis and do that which we think is best for all concerned. I would hope very much that in the interim period the General Affairs Committee will review the statutes of the surrounding states and see what can be done to tighten and further regulate and control the operation we have here today. We have really not touched upon the proliferation of illegal pickles. No one wants to touch that. That is too hot. It is like touching upon the books. We are not going to touch the sport books because that is too hot. It might get to some levels of individuals where it could prove to be embarrassing so we will just politely act as though it doesn't exist. Senator Chambers may try to tack an amendment on this bill sometime...

SPEAKER BARRETT: Time.

SENATOR SCHMIT: ...to do something about that but I doubt that he is going to get very many votes. Thank you.

SPEAKER BARRETT: Senator Rod Johnson, followed by Senators Hartnett and Smith.

SENATOR R. JOHNSON: Mr. President and members, I am not sure how many of you paid attention to yesterday's newspaper but if you did you saw this article that reads "Fairfield counting on keno to revitalize the village economy" and then there is also another article on it in this morning's World-Herald, but the folks in Fairfield did decide to pass keno gambling in Fairfield, and I guess its a sad reflection either on agriculture or on this state as a whole that the village economy is going to be basically based upon gambling to revive itself. Fairfield has gone through some pretty stressful times. They lost their bank back in 1985. They lost their largest private employer, which was a John Deere dealership, that closed. Both of those have been reopened under new ownership, but the fact is the community has survived. But I am a little disappointed that we have to count on gambling as a way of...maybe the only way, in this case, of Fairfield managing to survive. I think, as I said, it is a sad reflection on us or upon the state as a whole that we can't do a better job in rural Nebraska to provide opportunities for folks in rural areas other than relying on gambling as a way to support its economy. But I know, as Senator Schmit has indicated, there are legal gambling opportunities and there are illegal gambling opportunities, and I, quite frankly, as a personal note, I could care less whether you legalize it or outlaw it. I am not that big a fan of gambling altogether but I enjoy, like most of you, to observe it and to participate in it once in awhile, but it wouldn't hurt me if it went away. But, you know, I just bring that up to you because I find it ironic that in this case a small community is going to build its economy's future on the basis of keno. I think that is a sad reflection on what is taking place in a lot of areas in the state where opportunities have simply dried up and Fairfield is a good community, but it is a farming community that has suffered through the ag recession or depression, however, you want to put it. It is rebuilding but now they are basing their hopes on keno as a way of bringing them around. I wish them the best but I think it is somewhat sad, also.

SPEAKER BARRETT: Senator Hartnett.

SENATOR HARTNETT: Mr. Speaker, members of the body, I simply rise to support LB 767, and I think that we have, with the cooperation of the Department of Revenue, crafted a pretty good piece of legislation where we do restrict this type or lotteries within the State of Nebraska as far as its operations and given

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LB 89, 744, 761, 767A, 767

them some more control over it. And I was visiting privately with Senator Lynch, I guess what we have discovered in Bellevue, and I know where his problems there with his Little Vikings is that the bill also says if you are running a lottery you can't run another type of gambling operation, so we have discovered in our...or the people that run the keno operation in Bellevue that the pickle sales are the largest for our volunteer fire department, which is done at the keno operation. So I think that maybe as Douglas County thinks about moving into this area, but I think we have crafted, I think, through the work of our Chairman, Senator Smith has done a good job of bringing legislation, and I think we need to look at again, maybe in another year, at the pickles.

SPEAKER BARRETT: Senator Smith, please. Thank you. Senator Withem. Senator Withem on the advancement of the bill.

SENATOR WITHEM: Call the question.

SPEAKER BARRETT: Thank you. That won't be necessary. Anything further, Senator Smith, on the advancement of the bill?

SENATOR SMITH: No. Let's just move the bill. Thank you.

SPEAKER BARRETT: Thank you. The question is the advancement of LB 767 to E & R engrossing. Those in favor say aye. Opposed no. The ayes have it. Motion carried. The bill is advanced. Anything for the record, Mr. Clerk?

CLERK: Mr. President, I have a reference report referring gubernatorial appointment for confirmation hearing; amendments to LB 761 by Senator McFarland; Senator Withem to LB 744; Senator Moore to LB 89. (See pages 2269-71 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: To the A bill.

CLERK: I have no amendments to LB 767A, Mr. President.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I would move the advancement of LB 767A.

SPEAKER BARRETT: Shall LB 767A be advanced.? All in favor say

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LB 95, 258, 280, 289A, 444, 640, 761
762, 767, 767A, 780

I have a Reference Report referring gubernatorial appointees. Enrollment and Review reports LB 95, LB 280, LB 444, LB 640, LB 762, LB 767, LB 767A, LB 780, all are reported correctly engrossed. Enrollment and Review further reports LB 258 and LB 289A to Select File, Mr. President. (See pages 2364-69 of the Legislative Journal.)

The next amendment, Mr. President, is by Senator Kristensen. Senator, I have amendment number 1723, AM1723, Senator.

PRESIDENT NICHOL PRESIDING

PRESIDENT: Senator Kristensen, please.

SENATOR KRISTENSEN: Thank you, Mr. President. Mr. Clerk, is that the one that is printed on page 2149?

CLERK: Yes, sir.

SENATOR KRISTENSEN: Thank you. Mr. President and members of the body, I almost shudder to say this but I think this might be one of the amendments to this bill that shouldn't receive a whole lot of controversy. What it is, and it deals with two things in specifics, most of you have probably been contacted by constituents of Senator Morrissey, myself, or Senator Dierks. You have probably seen people with their frustration levels at their highest, not only on the floor, but in the halls, and certainly within the communities that have been picked as potential host sites for this facility. One of the common themes, at least when I go out and do town hall meetings in those areas, is that there is a lot of tensions, a lot of scared people, a lot of people that have some grave concerns about the future of not only just their own personal lives and their farms and their communities but what is perceived about these farms and communities, and about what sort of image and cloud is going to be cast over them in the future, if they are selected, or the fact that they are just under consideration. I had several people come to me, and in particular a couple of ministers who are doing a lot of good work in that area in terms of counseling, and they have received a rash of people searching for some answers and some consoling, and, if for nothing else, just how to cope with this anxiety. The way we cope in here is we call the question, we take our votes, they are either up or they are down, and we can go on with the issues because we know

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LB 744, 767, 767A, 780

or not 744 can be passed into law. Mr. Clerk, roll call. Proceed.

CLERK: (Roll call vote taken. See pages 2660-61 of the Legislative Journal.) 25 ayes, 22 nays, 2 present and not voting, Mr. President, on the final passage.

SPEAKER BARRETT: LB 744 passes. With again a reminder that we are on Final Reading and technically under call. Next bill.

ASSISTANT CLERK: (Read LB 767 on Final Reading.)

PRESIDENT NICHOL PRESIDING

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 767 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Read record vote as found on pages 2661-62 of the Legislative Journal.) 44 ayes, 0 nays, 4 present and not voting, 1 excused and not voting, Mr. President.

PRESIDENT: LB 767 passes with the emergency clause attached. LB 767A, please.

CLERK: (Read LB 767A on Final Reading.)

PRESIDENT: Have you all voted? Record, Mr. Clerk, please.

CLERK: (Read record vote as found on pages 2662-63 of the Legislative Journal.) 42 ayes, 0 nays, 6 present and not voting, 1 excused and not voting, Mr. President.

PRESIDENT: LB 767A passes. LB 780, please.

CLERK: (Read LB 780 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 780 pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Read record vote as found on pages 2663-64 of the Legislative Journal.) 42 ayes, 3 nays, 4 present and not

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LB 137A, 137, 639, 739A, 744, 761, 762
767, 767A, 780

PRESIDENT: It is withdrawn. Please read the bill.

CLERK: (Read LB 639 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 639 pass? All those in favor vote aye, opposed nay. Have you all voted? Have you all voted? Record, Mr. Clerk, please.

CLERK: (Record vote read. See pages 2669-70 of the Legislative Journal.) 36 ayes, 8 nays, 5 present and not voting, Mr. President.

PRESIDENT: LB 639 passes. LB 761 with the emergency clause attached.

CLERK: (Read LB 761 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 761 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Have you all voted? Record, Mr. Clerk, please.

CLERK: (Read record vote as found on page 2671 of the Legislative Journal.) 46 ayes, 0 nays, 3 present and not voting, Mr. President.

PRESIDENT: LB 761 passes with the emergency clause attached. LB 762, please.

ASSISTANT CLERK: (Read LB 762 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 762 pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

ASSISTANT CLERK: (Record vote read. See pages 2671-72 of the Legislative Journal.) The vote is 48 ayes, 0 nays, 1 present and not voting, Mr. President.

PRESIDENT: LB 762 passes. While the Legislature is in session and capable of transacting business, I propose to sign and do sign LB 767, LB 137A, LB 137, LB 780, LB 767A, LB 744, LB 739A,

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LB 137, 137A, 211, 215, 228, 352, 639
739, 739A, 744, 761, 762, 762A, 767
767A, 780, 815, 815A, 817
LR 115

PRESIDENT NICHOL PRESIDING

PRESIDENT: (Microphone not activated immediately) ...W. Norris Legislative Chamber. We have with us this morning, as our Chaplain of the Day, Reverend Homer Clements of Saint Luke's United Methodist Church in Lincoln. Would you please rise for the invocation.

REVEREND CLEMENTS: (Prayer offered.)

PRESIDENT: (Gavel.) Thank you, Reverend Clements. We appreciate it. Roll call, please.

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

PRESIDENT: Thank you. Any corrections to the Journal today?

CLERK: I have no corrections, Mr. President.

PRESIDENT: Good. Any messages, reports or announcements?

CLERK: Mr. President, just one item and that is a...your Enrolling Clerk did present to the Governor the last few bills read on Final Reading last evening, and that's all that I had, Mr. President. (See bills presented to the Governor regarding LB 767, LB 767A, LB 137, LB 137A, LB 744, LB 780, LB 739, LB 739A, LB 211, LB 215, LB 228, LB 352, LB 639, LB 761, LB 762, LB 762A, LB 815, LB 815A, and LB 817 as found on page 2677 of the Legislative Journal.)

PRESIDENT: Good. We'll move on to Legislative Resolution, LR 115.

CLERK: Mr. President, LR 115 is offered by Senator Baack. It's found on page 2092. It asks the Legislature to acknowledge the centennial celebration of Cheyenne County...Banner County. Banner County, excuse me, Senator.

PRESIDENT: Senator Baack, please.

SENATOR BAACK: They're fairly close together, I guess. Banner County at one time was a part of Cheyenne County, but is now a Banner County. Mr. President and colleagues, this is a resolution honoring Banner County for their 100th birthday that will take place this summer. Banner County was the first county