

ordered.

ASSISTANT CLERK: And I have a report from the Reference Committee referring LBs 1-75. (See pages 100-102 of the Legislative Journal.) That will be inserted in the Legislative Journal.

PRESIDENT MOUL: If there are no other messages, reports or announcements, we will proceed to Item 6, the introduction of new bills.

ASSISTANT CLERK: (Read LB 149-162 by title for the first time. See pages 102-04 of the Legislative Journal.)

Madam President, I have a request from Senator Nelson to convene the Retirement Committee under the south balcony at ten-thirty, for purposes of choosing a vice-chair. That's the Retirement Committee under the south balcony at ten-thirty.

PRESIDENT MOUL: At this time we have no more bills for introduction. We will stand at ease.

EASE

PRESIDENT MOUL: Mr. Clerk, we'll proceed with the introduction of more bills.

ASSISTANT CLERK: Thank you, Madam President. I do have more new bills. (Read LBs 163-175 by title for the first time. See pages 105-07 of the Legislative Journal.) That's all I have at this time, Madam President.

PRESIDENT MOUL: Thank you. And we'll be at ease, again.

EASE

SPEAKER BAACK PRESIDING

SPEAKER BAACK: If members do have bills that they want turned in today, we'd like to have them by eleven-thirty, if we could, except for Kristensen's bills, we don't want any of those. Mr. Clerk, new bills.

ASSISTANT CLERK: Thank you, Mr. Speaker. (Read LBs 176-203 by title for the first time. See pages 107-13 of the Legislative

PRESIDENT MOUL PRESIDING

PRESIDENT MOUL: (Mike not immediately activated.)...this morning with a prayer by Chaplain Harland Johnson.

HARLAND JOHNSON: (Prayer offered.)

PRESIDENT MOUL: Thank you. The fifth day of the Ninety-second Legislature, First Session, is hereby called to order. Mr. Clerk, would you proceed with the roll call. Please record.

CLERK: A quorum present, Madam President.

PRESIDENT MOUL: Thank you, Mr. Clerk. Mr. Clerk, do you have corrections to the Journal?

CLERK: We have no corrections this morning, Madam President.

PRESIDENT MOUL: Mr. Clerk, do you have any messages, reports or announcements?

CLERK: I do. I have a Reference Report referring LBs 138-204, as well as LB 94 and LB 109 and that report is signed by Senator Warner as Chair of the Reference Committee. (See pages 195-97 of the Legislative Journal.)

Madam President, I received a report from the State Claims Board regarding the filing of bonds for the various constitutional officers. That will be inserted in the Journal.

Two announcements, Senator Beutler has been selected as Vice Chair of the Rules. That is announced by Senator Lynch. And Senator Morrissey has been selected as Vice Chair of the Natural Resources Committee, and that is offered by Senator Rod Johnson. And Senator Conway would like to announce that Senator Schimek has been selected as Vice Chair of the Government Committee. And, Madam President, I believe that is all that I have this morning.

PRESIDENT MOUL: Thank you, Mr. Clerk. We'll go into number 5, motions. Senator Haberman has a motion to present and I will recognize the senator. Mr. Clerk.

CLERK: Madam President, Senator, your motion with respect to the withdrawal of LB 215 is found on page 183 of the Journal.

February 14, 1991 LB 200, 234, 236, 275, 334, 336A, 346, 420A

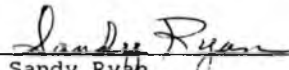
General File; LB 275 to General File with amendments. Those are signed by Senator Rogers. And another report from Banking reporting LB 346 to General File with committee amendments attached. And General Affairs Committee offers LB 200 and LB 334 to General File. Those are signed by Senator Smith. (See pages 692-94 of the Legislative Journal.)

Two new A bills, Mr. President. LB 336A by Senator Kristensen. (Read title for the first time. See page 694 of the Legislative Journal.) LB 420A, by Senator Kristensen. (Read by title for the first time. See page 694 of the Legislative Journal.) Select File reports LB 234 to Select File and LB 236. (See pages 694-97 of the Legislative Journal.)

And, finally, Mr. President, I have a report and a minority report from the Executive Board regarding the election contest in the 30th Legislative District. Both of those will be inserted in the Journal in full. (See pages 697-700 of the Legislative Journal.) That's all that I have at this time, Mr. President.

SPEAKER BAACK: Thank you, Mr. Clerk. You've heard the motion to adjourn. All those in favor say aye. Opposed no. We are adjourned.

Proofed by:

  
Sandy Ryan

March 12, 1991      LB 200, 358

CLERK:    28 ayes, 0 nays, Madam President, on the advancement of 358.

PRESIDENT MOUL:    LB 358 is advanced.    LB 200.

CLERK:    LB 200 introduced by Senators Smith, Johnson, Will, Rogers, Hartnett, Rasmussen and Cudaback.    (Read title.)    The bill was introduced on January 11, referred to General Affairs, advanced to General File.    I have no amendments to the bill, Madam President.

PRESIDENT MOUL:    Senator Smith.

SENATOR SMITH:    Thank you, Madam President, members of the body, the concept of this bill was requested by the State Racing Commission. The commission is given the power in this bill to fine licensees who violate the commission's rules and regulations. Currently, the commission can revoke or suspend licenses only. The proposed fine can be instead of or concurrent with license suspension or revocation and the fine would not exceed \$1,000 and it must be proportional to the seriousness of the violation in the extent to which the licensee derived financial gain as a result of the violation. The second part of the bill would be that the commission is allowed to fingerprint any licensee or applicant for the purposes of conducting a background check for any criminal history from records that are maintained by the FBI. And then the applicant or licensee would have to pay the actual cost of any fingerprinting and the background work. I want to make it very clear that the requirements do not apply to employees of food or drink concessions who do not work in restricted access areas or to admissions employees. This makes it comparable to the same kinds of requirements that the Liquor Commission has. That's the gist of the bill. I would also say, in all fairness, and Senator Hall is not on the floor this morning, that he has expressed a concern in prior hearings on this bill that what we're doing in his words is requiring only the little guys to be licensed but not the big guys and he has asked if they would be...it would be opposed to being fingerprinted also and they have said that they were not adverse to that and they would like to look at it along with him, so I would assume that Senator Hall will have an amendment on Select and I will be supportive of that amendment at that time. I ask for your support in voting for LB 200. Thank you.

PRESIDENT MOUL: Thank you, Senator Smith. Senator Beutler.

SENATOR BEUTLER: Madam President, Senator Smith, if I may, I think there is one other matter here that perhaps people should think about and I don't know whether we want to do it one way or the other, but there is something to be said for being consistent. The Education Committee advanced a bill to the floor dealing with teachers and the fingerprinting of teachers and, in doing so, a compromise was reached whereby already existing teachers, those who were already teaching in the system were not fingerprinted. And under this bill, as I understand it, you're fingerprinting both those who already have licenses as well as those coming into the system in the future. I might just ask whether there was much discussion on that distinction and whether you are adverse to leaving out those who are already licensed. You know, the Legislature is going to have to think about this and in the light of two or probably more bills down the line, but the issue now becomes raised for the first time.

SENATOR SMITH: Would you like to have me respond to that?

SENATOR BEUTLER: Yes.

SENATOR SMITH: Yes, thank you. I'll be glad to do that. In fact, that would be something, and I thank you for making us think about this. I wasn't aware about the teachers' fingerprinting bill. When Senator Hall and I sit down and work on the, I'm sure, the proposed amendment that he is going to be bringing on fingerprinting, we'll certainly take that into consideration. Thank you.

PRESIDENT MOUL: Thank you, Senator Beutler. Is there anyone else who wishes to speak on this bill? Seeing none, do you have closing?

SENATOR SMITH: No.

PRESIDENT MOUL: Closing is waived. We will proceed to vote on the motion to advance LB 200. All those in favor please vote aye, opposed nay. Have you all voted? Please record, Mr. Clerk.

CLERK: 26 ayes, 0 nays, Madam President, on the advancement of LB 200.

March 12, 1991

LB 200, 334, 409, 778

PRESIDENT MOUL: LB 200 is advanced. LB 334.

CLERK: LB 334 introduced by the General Affairs Committee. (Read title.) Introduced on January 16, referred to General Affairs, advanced to General File. I have no amendments to the bill, Madam President.

PRESIDENT MOUL: Senator Smith.

SENATOR SMITH: Thank you, Madam President, members of the body, LB 334 is a bill that would strike the definition of Nebraska-bred horses with the Nebraska citizenship requirement that is contained in the statutes at this point in time for owners seeking to register horses of the Nebraska-bred thoroughbreds or quarter horses. In February of 1990, an order was issued by the Lancaster County District Court which held that the Nebraska citizenship requirement for owners seeking to register horses as Nebraska-bred thoroughbreds was unconstitutional as violative of equal protection. The state didn't appeal this decision and subsequently the Attorney General issued an opinion which was requested by the State Racing Commission that based on the district court's finding of unconstitutionality with regard to Section 2-1213, subparts 2(c), the Nebraska citizenship requirement for ownership of the dam in subsection 2(d) should also be deemed invalid. The bill simply strikes the invalid language in the definition of Nebraska-bred horses.

PRESIDENT MOUL: Thank you, Senator Smith. Is there anyone who wishes to speak on this bill? Seeing none, we'll proceed to vote on the advancement of LB 334. All those in favor please vote aye, opposed nay. Have you all voted? Please record, Mr. Clerk.

CLERK: 27 ayes, 0 nays, Madam President, on the advancement of 334.

PRESIDENT MOUL: LB 334 is advanced. Do you have items for the record, Mr. Clerk?

CLERK: I do, Madam President, confirmation reports of Transportation Committee signed by Senator Kristensen; Natural Resources reports LB 409 to General File with amendments; LB 778, indefinitely postponed. Those are signed by Senator Johnson. (See page 1009 of the Legislative Journal.)

March 14, 1991

LB 44, 167, 200, 254, 254A, 333-335, 358, 534  
689, 745, 795, 810  
LR 50, 51

**PRESIDENT MOUL PRESIDING**

**PRESIDENT MOUL:** Good morning, ladies and gentlemen. And welcome to the George W. Norris Legislative Chamber. Our chaplain today is Pastor Alica Anderson Reitz from Lutheran Campus Center here in Lincoln. Pastor Anderson Reitz.

**PASTOR ANDERSON REITZ:** (Prayer offered.)

**PRESIDENT MOUL:** Thank you very much. I now call to order the 43rd day of the Ninety-Second Legislature, First Session. We will proceed with roll call. Please record your presence.

**ASSISTANT CLERK:** There is a quorum present, Madam President.

**PRESIDENT MOUL:** Are there any corrections to the Journal?

**ASSISTANT CLERK:** No corrections this morning, Madam President.

**PRESIDENT MOUL:** The Journal is approved. Any messages, reports, or announcements?

**ASSISTANT CLERK:** The Committee on Enrollment and Review respectfully reports that they have carefully examined and reviewed LB 44 and recommend that the same be placed on Select File; LB 333, Select File with amendments; LB 335, Select File; LB 358, Select File with amendments; LB 200, Select File with amendments; LB 334, Select File with amendments; LB 254 to Select File; LB 254A to Select File; LB 689, Select File with amendments; LB 534, to Select File; LB 745, Select File with amendments; and LB 810 to Select File. I have priority bill designations from Senators Hall and Peterson. (Re. LB 795 and LB 167.) A gubernatorial appointment appointing Ronald L. Barte to the Nebraska Board of Parole. I have a report of registered lobbyists for the current week; Attorney General's Opinion addressed to Senator Crosby. Senator Hall would like to announce that the Revenue Committee will meet in Executive Session on Monday, March 18, at 10:30 a.m., in the Senator's Lounge, and also at 1:30 p.m., in Room 1517. That's the Revenue Committee for next Monday at ten-thirty and one-thirty. And LR 50 and LR 51 are ready for your signature. (See pages 1053-61 of the Legislative Journal.)

**PRESIDENT MOUL:** While the Legislature is in session and capable of conducting business, I propose to sign and do sign LR 50 and

March 25, 1991      LB 200

PRESIDENT MOUL: Congratulations to Senator Bernard-Stevens and his family. We will now proceed with Item 5 on the agenda, confirmation report.

CLERK: Madam President, confirmation report offered by the Health and Human Services Committee. The report is found on page 1228 of the Journal.

PRESIDENT MOUL: Senator Wesely.

SENATOR WESELY: Thank you, Madam President, members of the Legislature, this is a confirmation report dealing with the appointment of Mary Dean Harvey as the Director of the Department of Social Services; Dale Johnson as Director of Department of Public Institutions; Bruce Bailey and Lyle O'Hare to the Modular Housing Advisory Board. We did hold hearings on each of these individuals and have recommended the approval of the Legislature. Let me just note for the record that the committee was concerned a bit about the Modular Housing Advisory Board since it had not met for seven years. The concern was that there may not be any need for that entity, so we are going to be looking into the Modular Housing Advisory Board, but certainly the other two appointments as Director of Department of Social Services and Director of Department of Public Institutions are very important and we recommend the approval of these individuals.

PRESIDENT MOUL: Thank you, Senator Wesely. Is there any comment on the confirmation report? Seeing none, we will proceed to vote on the adoption of the confirmation report. All those in favor please vote aye, opposed nay. Have you all voted? Please record, Mr. Clerk.

CLERK: 25 ayes, 0 nays, Madam President, on adoption of confirmation report.

PRESIDENT MOUL: The report is adopted. We will proceed with Item 6 on the agenda, Select File, LB 200.

CLERK: Madam President, Senator Will, I have E & R amendments pending to LB 200.

PRESIDENT MOUL: Senator Will.



March 25, 1991      LB 200, 334

SENATOR WILL: Madam President, I move the adoption of the E & R amendments to LB 200.

PRESIDENT MOUL: You've heard the motion to adopt the E & R amendments. All those in favor please say aye. Opposed nay. The E & R amendments are adopted.

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

PRESIDENT MOUL: Senator Will.

SENATOR WILL: Madam President, I punched my light because I wanted to get in the record. I know that Senator Hall has some amendments that he plans on introducing to LB 200. He is not here at this time. I just wanted to get on record that there probably will be amendments on this bill at some point after its advancement. With that, I would simply move the advancement of LB 200 to E & R for engrossment.

PRESIDENT MOUL: Thank you, Senator Will. Senator Beutler.

SENATOR BEUTLER: Madam President, I would just ask if it's being advanced to Final Reading, does that incur additional cost? Might it be better just to hold it here on Select if we know there are further amendments coming?

PRESIDENT MOUL: Senator Will.

SENATOR WILL: Let's pass over the bill for now.

PRESIDENT MOUL: Okay, we will pass over LB 200. LB 334.

CLERK: Senator, 334, I do have E & R pending.

PRESIDENT MOUL: Senator Will.

SENATOR WILL: Madam President, I move the adoption of the E & R amendments to LB 334.

PRESIDENT MOUL: You've heard the motion to adopt the E & R amendments. All those in favor please say aye. Opposed nay. E & R amendments are adopted.

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

April 2, 1991

LB 200, 297, 387A, 457A, 470

amendments, signed by Senator Conway. (See pages 1427-29 of the Legislative Journal.) Senator Hefner has amendments to LB 297. (See page 1426 of the Legislative Journal.) Senator Landis to LB 470. (See pages 1422-25 of the Legislative Journal.) And I have a confirmation report from the Government Committee. That will be acted on at another time. And two new A bills, Mr. President. (Read LB 387A and LB 457A by title for the first time. See page 1429 of the Legislative Journal.) That's all that I have, Mr. President.

SPEAKER BAACK: Thank you, Mr. Clerk. We'll now proceed to Item 7 on the Agenda, Select File on LB 200.

CLERK: First order, Mr. President, are E & R amendments on LB 200.

SPEAKER BAACK: Senator Will.

SENATOR WILL: Mr. Speaker, I move the adoption of the E & R amendments on LB 200.

CLERK: Senator, excuse me, they have been adopted. I didn't look quickly enough. Mr. President, first amendment I have to the bill is by Senator Hall. Senator, I have your AM0987 in front of me. (Hall amendment appears on pages 1429-30 of the Legislative Journal.)

SPEAKER BAACK: Senator Hall.

SENATOR HALL: Thank you, Mr. President, members, AM0987 is the...were these printed, Mr. Clerk?

CLERK: No, sir.

SENATOR HALL: I apologize for that. I thought that we had asked that they be printed. My amendment is a very simple one so that the fact that it wasn't printed is something I should apologize for. I should have requested that, I did not. It is simply this. It strikes the original Section 2 of the bill and if you open your bill books and look at LB 200, the original Section 2 is the section that deals with fingerprinting. The bill was a bill that does with the horse racing licenses, revocation, those issues that are encompassed in the total of the bill. All we do with this amendment is strike the requirement, I'm looking for the green copy of the bill here,

the fingerprinting issue. And Section 2 of the bill is on page 2 and it really is one of only two sections of the bill. It reads as this: "Any person applying for or holding a license to participate in or be employed at a race track meeting license by the State Racing Commission shall be subject to fingerprinting and a check of his or her criminal history record information maintained by the Identification Division of the Federal Bureau of Investigation for the purposes of determining whether the commission has a basis to deny the license application or to suspend, cancel, or revoke the person's license. The applicants or licensee's shall pay the actual cost of any fingerprinting or check of his or her criminal history record information. The requirements of this section shall not apply to employees of food or drink concessions who do not work in restricted-access areas and admissions employees whose duties involve only admissions ticket sales and verification or parking receipts sales and verification." Ladies and gentlemen, what this amendment does is strike the, what I would call the first step in, I guess, the George Orwellian process of making sure that big brother keeps track of every place we are, and we start that process by using the horse racing industry as the vehicle by which we argue that fingerprinting to look at someone's background just because they happen to be an employee of this industry, just because they grew up very likely in this industry, just because they work at a track, whether they be a high school individual who as a summer job, walks horses, whether they be an individual who grew up in the industry and is a smithy and shoes horses, whether they be an owner or a jockey who have as their profession the horse racing industry, we put a label on that and say that this is suspect. This industry is suspect to the point where we need to know whether they have a criminal history, what their background is, and we want to have fingerprints on file and we want to give them to the FBI. We want to make check and run through the FBI whether or not this individual is worthy to be allowed basically on the backside of a track. In other words, we don't worry about anybody who is working at the window in terms of taking in the money, we don't care if they have a criminal record. We don't care if the guy parking your car may have stole your car before, we don't need to fingerprint them, we need to fingerprint somebody who cleans out the barns for example, because we're worried about whether or not they may have access to the horses, may have access to the jockeys for, I guess, illegal purposes. This is the first step down the road that we'll say, okay, we don't want to do it just for the horse racing industry, we want to do it for, let's

say charitable gaming. Maybe we want to do it for local option lotteries. We want to submit those fingerprints to the FBI and then we say that, well, you know, the teamsters is a pretty rough union. They've been around, they've had some black marks on their ledger in the past, maybe we ought to take fingerprints of everybody who is an over the road driver and it's a member of the Teamsters Union and we ought to submit that to the FBI. At what point does it stop? At what point do we say these individuals don't need to be fingerprinted? And every one of those examples that I gave you tend to be people who move in and out of the business, move in and out of a state, move in and out with the industry. Granted, racing is a seasonal industry. It's seasonal within the state itself. It moves from one end of the state to another as the weather improves and as the seasons begin and end at different tracks. Over the road drivers go in and out of the state. Gaming individuals travel within the gaming industry. They work at different areas, they move in and out as the jobs appear and disappear. Why shouldn't they be fingerprinted? Now there may be those who say they should be fingerprinted. I would argue, at this point there is no justification for an individual to be fingerprinted because they happen to clean out a stall on the back side of the State Fair grounds, but that's what we do with LB 200. And we begin that process of saying, you're going to be on the FBI fingerprint roles and where does it end? Where does it end? Where does a young person, I guess who, has a part-time job during the summer, has their fingerprints taken just so that they can shovel manure at probably minimum wage and we're doing that to protect, I guess, against some sort of fraud, some sort of potential hazard in the industry of illegal activities. I say it's overkill at best. It's the kind of issue that needs to be stricken from this bill. I think the rest of the bill is fine, deals with what the commission may do in terms of revocations of licenses and I believe that's the way problems within the industry ought to be addressed through the commission. They don't need to be addressed through a broad brush approach to say, everybody who works in this area ought to be fingerprinted. They have control, I guess, in someone's mind of being able to fix a race. What's the difference between that individual and an individual who monitors, runs the race track, votes on when those racing dates are going to be held, who may have individuals that are beholden to them because of those decisions, those powers that they can exercise. I would argue that there is none and if anything, those individuals who basically are in charge make the decisions should be more

subject to a fingerprinting operation than the poor guy who works on the back side and scrapes out a living. I would urge that the amendment be adopted which would strike the fingerprinting provision from the bill. It does not affect the specific intent of the bill that deals with the issue of the commission's ability for revocation of licenses but it does, I think, stop what could very likely become the first step toward fingerprinting across the board just because someone feels that these individuals might have the ability to subject others to some kind of illegal activity. Maybe had we had this a few years ago we could have fingerprinted everybody in the S & L industry but...

SPEAKER BAACK: One minute.

SENATOR HALL: ...that's not the case. That is water under the bridge, over the dam and it's money out of every taxpayer's pocket. That doesn't happen because that's white-collar folks out there and we don't address them in the same way as we do the working stiff on the back side of the track. Mr. President, I would move the adoption of the amendment.

SPEAKER BAACK: Thank you, Senator Hall. Discussion on the Hall amendment, Senator Smith.

SENATOR SMITH: Thank you, Mr. Speaker, members of the body, I rise to oppose the Hall amendment and before I give my reasons, I would like to ask Senator Hall if I might, a question?

SPEAKER BAACK: Senator Hall, would you respond, please?

SENATOR HALL: Yes.

SENATOR SMITH: Senator Hall, I have here...and I appreciate the fact that I did receive a copy of the amendments that you intended to offer this morning.

SENATOR HALL: And, Senator Smith, I apologize I...

SENATOR SMITH: I do have though, I did receive them.

SENATOR HALL: I would have had them printed and I just...I blew it.

SENATOR SMITH: Okay, but what I was going to ask you is, how

serious, I mean, I'm not going to stand and argue with you if you're not sincere in your intent to try to remove the whole section on fingerprinting as being proposed in this amendment. You have two other amendments which are different versions of it. Is there going to be your first attempt and if this fails, then you're going to go to the next and then to the next?

SENATOR HALL: That is correct. It's not an attempt to delay the bill. I will only close on the bill unless, or on the amendment unless there are other questions. I'm not going to try and delay the bill. I put them in this order because they are from the most...

SENATOR SMITH: Progressively, in other words.

SENATOR HALL: ...important, exactly.

SENATOR SMITH: Okay, all right, so what I'll do then is just speak now to the members of the body and give my reasons for opposing this amendment, and I'm not saying that I'm really opposed to something...one of his other amendments which are less restrictive than this one is. If you recall, this bill really had two provisions in it. The one provision dealt with the ability of the commission to revoke or suspend licenses and the second portion of the bill, when we had it on General File, dealt with the ability of them to fingerprint any licensee or applicant for the purposes of conducting a background check for any criminal history, and it covered those people that were in positions in the race track who worked in restricted access area or...but it did not apply to employees of food or drink concessions or to admissions employees. So those people are exempt from it at this point in time. The other thing that I would tell you is that I know that Senator Hall had this problem, this concern. We had this bill in committee, if I recall, last year. We didn't deal with it on the floor, but he had this same concern last year about the fact that this is being offered by the commission and that they were exempting themselves from being included in the fingerprint process. And I know that a number of times they have said, because it's been...that question has specifically been asked of them, as you object to including yourselves and they said, no. But then when they brought their bill in it did not have it in. That's why when Senator Hall wasn't here on General File, on his behalf, I said that I knew he had problems because it had been expressed before this that he would probably be addressing on Select File.

And I don't take any offense at the fact that he is trying to address it at all. The only thing is that I will...I do not want to remove the entire section on fingerprinting because the main purpose of this section of the bill is to keep felons from obtaining a license or being a part of the racing industry in Nebraska, those with criminal records, from being...in other words, precluding them from being a part of the racing industry. We want to keep the industry clean in Nebraska and I want to make very clear, applicants for liquor licenses and charitable gaming licenses must already meet a similar requirement. This is not opening the door to anything new as far as any kind of gambling activity is concerned. If we consider the horse racing industry to be gambling, which I do by the way, then it's only reasonable I believe that they should be included as far as the ability for licensee's to be fingerprinted. Now, what I want to say and I want to make it really clear is that I will oppose this amendment as such because it strikes the whole of the second part of the bill which takes away all fingerprinting requirements. I would support the inclusion of the commission, those so-called white-collar workers that I think he is talking about or white-collared persons, and if he can show me that in one of his future amendments that that's what he is planning to do, I'll be supportive of that. At this point though, I want to make it really clear what you're doing is removing the same ability that we already have for gambling in Nebraska as far as charitable gaming is concerned and as far as liquor licensee's are concerned. It puts them all in the same, if you want to call it that, on the same level...

SPEAKER BAACK: One minute.

SENATOR SMITH: ...if we retain this section. So with that, I want to make sure that you know I'm opposing this amendment. Thank you.

SPEAKER BAACK: Thank you, Senator Smith. Further discussion, Senator Nelson.

SENATOR NELSON: Mr. Speaker, at first I wasn't even going to mention this and I know that we select different groups and different people and so on and Senator Hall is very sincere in his argument and concerns, but we also have a bill coming down the pipeline that would fingerprint school teachers so we're not just necessarily picking out, and this was brought to us and in support of the education of the Omaha school district, that they

also do not know not necessarily the certified teachers and so on, but they're not picking out one or the other school personnel or bus drivers, that they have no other way, so they're not picking out just the race horse people and it will probably grow in the list. I just wanted to mention that. At first I didn't and I have reservations there, but I did hear the arguments for and against it.

SPEAKER BAACK: Thank you, Senator Nelson. Senator Crosby.

SENATOR CROSBY: Thank you, Mr. Speaker and members. Senator Hall, I'm not quite sure how I'm going to vote on this yet because you may have noticed, some of you, since Senator Nelson brought it up I have filed several amendments on that fingerprinting bill on school teachers and school employees and so I don't think they're...gambling and horse racing and liquor licenses and so on for me are in a separate category than school employees and school teachers and that has an entirely different thrust, so I really don't think that bill should even be considered or talked about at this stage of the game nor I don't think there is a parallel as far as the thrust of the bill. That's all I wanted to say. Thank you.

SPEAKER BAACK: Thank you, Senator Crosby. Any further discussion on the amendment? Senator Hall, do you wish to close?

SENATOR HALL: Only to say this, so that we can bring it to a vote before we break for lunch, Mr. Speaker. And that is that they...in a sense, Senator Smith is right and she is being very up front in terms of saying that they're, to a certain extent, treated the same, but this is a much broader application than those that are applied to an individual in any other type of gambling. The only person that is fingerprinted to my knowledge is the licensee. If I happen to volunteer at my parish's bingo and sell pickles or sell the paper over the counter, I'm not fingerprinted, doesn't happen. I don't get fingerprinted and I'm working right there with money. I could very likely even be calling a bingo game and alter the outcome of that if I chose to do that. I'm not fingerprinted. Under this proposal and in this amendment there is a provision that says anybody who works in that area, doesn't matter if they water the horses, they have to be fingerprinted and it is a move that is taking place across the country and I think it's a move that needs to be stopped, frankly, because as Senator Nelson pointed out, and I appreciate



Senator Crosby's comments, I don't think you should mix the two up, but in a sense you almost can't because, as someone said earlier, it's a slippery slope if there ever was one in this area of where do we end up with fingerprinting? Do we ultimately end up having to bring in our fingerprint file instead of giving ourselves a security number? I don't know. I don't want to begin that process and I see LB 200 as beginning that even though we justify it saying that horse racing is gambling and I concur, I agree that it is, support it, support it in a number of ways, but I cannot stand here and tell you that I think fingerprinting individuals because they happen to work in a specific profession that isn't directly affected. Watering a horse doesn't directly affect the outcome of a race. I find that hard to believe, or cleaning out a barn, but those people are all lumped in that same category and it's not exactly the same as other forms of gambling in this state. So it is a very sincere effort on my part because I think it's a critical change in terms of how we address this industry and I think it's the first step toward how we're going to look at things in other areas. I would ask the committee adopt the amendment, the body adopt the amendment. I appreciate Senator Smith's comments on the other amendments that I have following and I appreciate her courtesy on General File when I was out of town. I would urge adoption of the amendment, Mr. Speaker.

SPEAKER BAACK: You have heard Senator Hall's closing. We will now proceed to vote on the Hall amendment. All those in favor vote aye, opposed vote no. Have you all voted? Have you all voted? Record, Mr. Clerk.

CLERK: 8 ayes, 11 nays, Mr. President, on adoption of the amendment.

SPEAKER BAACK: The amendment is not adopted. Do you have items for the record, Mr. Clerk?

CLERK: I have nothing at this time, Mr. President.

SPEAKER BAACK: Senator Hall, would you like to recess us until one-thirty?

SENATOR HALL: Yes, Mr. Speaker, I have copies of my other amendments that are very serious, as was that one, but timing is everything and it's time to eat. I would move that we recess until one-thirty.

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LB 76, 200, 292, 344

SPEAKER BAACK: You've heard the motion to recess. All those in favor say aye. Opposed no. We are recessed until one-thirty.

RECESS

SPEAKER BAACK PRESIDING

SPEAKER BAACK: Good afternoon, and welcome to the George W. Norris Legislative Chamber. Roll call.

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

SPEAKER BAACK: Do you have items for the record?

CLERK: One item, Mr. President. Bills read on Final Reading this morning were presented to the Governor at twelve o'clock, noon. (Re: LB 76, LB 292, LB 344.) That's all that I have, Mr. President.

SPEAKER BAACK: We are are ready to proceed then on LB 200.

CLERK: Mr. President, the next amendment I have with respect to LB 200 is an amendment by Senator Hall. Senator, I have your AM972 in front of me. (See page 1431 of the Legislative Journal.)

SPEAKER BAACK: Senator Hall.

SENATOR HALL: Thank you, Mr. Speaker. Members of the Legislature, the amendment that the Clerk mentioned, AM972, has been passed out, is on your desk, and has a large number 2 in the upper left-hand corner. And it inserts on page 3 of the bill, line 6, after "license", that "except that the commission shall not require a person to be fingerprinted if such person has been previously fingerprinted in connection with a license application in this state or any other state within the last five years prior to the application for such license." And what this does, and it's my understanding that Senator Smith, as she stated this morning, is in support of this proposal but I will let her speak for herself, is...and recognizes the fact that

these individuals may have been fingerprinted in other states. If we have the requirement, through the passage of LB 200 that they do be fingerprinted, that it is not something that needs to be done on an annual basis. Fingerprints, unlike hair loss, as I have experienced that, don't change...or hair color, for that matter, but they stay the same no matter how long, I guess, you have them and it would become something that I think could be really a burden and would serve no purpose to require that an individual who had been fingerprinted once was in the Federal Bureau of Investigation file would not have to be fingerprinted if they functioned in 50 states. All it takes is one application, one set of fingerprints sent to the file and that takes care of it whenever a search is made. It would be a duplication that would be totally unnecessary and I think is one that probably the Bureau, themselves, would find a little onerous. So I offer this amendment. The body made the decision not to strike the issue this morning. I can and will live with that but this issue, I think, is one that should be addressed and says that, look, if you're going to be fingerprinted, we'll fingerprint you not more than once every five years. With that, I offer the amendment. I yield the balance of any time I have to Senator Smith.

SPEAKER BAACK: Senator Smith.

SENATOR SMITH: Thank you, Senator Hall. It won't take me very long. I had my light on and it probably won't even take that. I just wanted to reaffirm what Senator Hall said regarding the federal act and the fingerprinting simplification law regarding the fact that if you've been fingerprinted in another state, then that state...if you apply in another state or go to another state, that that state can apply to other states for the record and you do have a record then on file as to whether or not you have a criminal record. And, based on that, otherwise I would have had a little concern with the idea that how can we justify if we say that we need to be fingerprinted that...but not if you already are a current licensee. But, based on the fact that many of them are licensed in other states, that's what I think Senator Hall is trying to stress here. And I will support the amendment. Thank you.

SPEAKER BAACK: Thank you, Senator Smith. Senator Bernard-Stevens.

SENATOR BERNARD-STEVENS: Thank you. Senator Hall, would you

just briefly...I'm trying to sift through all the paper here. Would you briefly fill me in on the fingerprinting side of the amendment?

SENATOR HALL: Yes. That's the only side there is of the amendment, Senator. The issue just says that the body recognized the importance of fingerprinting this morning by rejecting my amendment to strike it. All I do through this amendment is say that the...and it reads this way. I will read it to you again. It's all of six lines. It says, "except that the commission shall not require a person to be fingerprinted if such person has been previously fingerprinted in connection with the license application in this state or any other state within the last five years prior to the application for such license." In other words, we're only going to...you don't have to be fingerprinted any more than five years, as fingerprints don't change, there is really no need. Once they're in the FBI system, they don't go away and it would be rather duplicative and I think kind of expensive almost to...because the expense, if you read the bill, is at the hands of the individual who asks for the license so it's the guy on the backside of the track who has to pay for that and, you know, there's really no reason, once the fingerprints are in the system, to go ahead and duplicate that, especially if, for example, they were running in Iowa last year, they were fingerprinted over there, they come over to Nebraska, it makes little sense to send the Bureau another set of prints on this individual at their expense. And I would just urge this amendment to be adopted. There is a provision that says, you know, if something should happen, I guess every five years you could reopt but I don't even know if that's necessary. This just says that it shouldn't be any more than five years.

SENATOR BERNARD-STEVENS: Thank you, Senator Hall. Senator Smith, if you would yield to a question.

SENATOR SMITH: Sure.

SPEAKER BAACK: Senator Smith.

SENATOR BERNARD-STEVENS: Senator Smith, I was just kind of curious again on this, on the system. Once the fingerprint is taken or they have the fingerprint, is it the system that it would automatically be sent to the Bureau in Washington so we won't have any...we won't have anything to do with it statewide

where our law enforcement officials would check it? It's just if it's on the federal level, correct?

SENATOR SMITH: Right, it goes through the FBI.

SENATOR BERNARD-STEVENS: Okay. Thank you, Senator Smith. I guess the reason I wanted that clarified at least for the record is that if we're looking for any type of fingerprinting that would be helpful at the state level, it doesn't make any difference if you get a fingerprint or not because, basically, at the state level, since we don't have any computerized AFIS type of system which they have at the federal level, the only way to go ahead and check a fingerprint that's taken, even if it was lifted off of a latent print off of a crime is to go through the 300,000 some odd fingerprints that we have and visually look, by hand, at each fingerprint to see if you can find one that looks like it matches which is, obviously, an impossible task and that's why it's not done. So as long as it's on the federal level, I have no problem. If it was at the state level, I still wouldn't have a problem. On the other hand, it would be ineffective and wouldn't work. Thank you.

SPEAKER BAACK: Is there any further discussion from any member? Senator Warner.

SENATOR WARNER: Mr. President, I guess a question for Senator Hall. I'm having a little problem to visualize how this works. If somebody is...I assume you give them a license, a permit, to participate and then they have a form and they say, on the form, they were fingerprinted in some other state in the last five years and then they don't have to...they check a box. Is that what that...how this would work?

SPEAKER BAACK: Senator Hall.

SENATOR HALL: Senator Warner, it would be my understanding that they would...they would have to fill out the application as they would in any other...for any other license, whether they...and if it was a box that would be checked, I would...I would think that it would be on the Racing Commission to make sure to run that check on those individuals just as if they had taken the prints at the commission for an application. They would run a check on that individual who checked the box and said, yes, I was, you know, printed in Arkansas two years ago. So...

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SENATOR WARNER: What I'm curious is how would the Racing Commission know whether or not that was true? I mean, somebody goes and checks and they use the name John Doe that they know was licensed...

SENATOR HALL: Right.

SENATOR WARNER: ...in...or fingerprinted in Tennessee three years ago...

SENATOR HALL: Right.

SENATOR WARNER: ...which you might find 10 John Does around the country.

SENATOR HALL: Right. Those app...it's my understanding those applications include other identifying information such as a Social Security number that that individual would be identified by that they're currently being identified by now when they seek a license. They have to give a permanent place of residence. They have to give other types of things like birth date, Social Security number, that do identify that person currently. They are paid wages. They do have to have withholding taken out of their checks, so they're in the system now. All this bill does is, I guess, give them one more identifying provision and the amendment just says that if that identifying provision is available currently in the system, they don't have to pay to have it done again.

SENATOR WARNER: Do you know, is there some problem with the current system that they want a fingerprint, unless there's...

SENATOR HALL: I tried to strike the fingerprinting this morning. I didn't get enough votes for it.

SENATOR WARNER: No, well, I understood. But my assumption is that there was...someone felt there was a need for the fingerprint because all the other traditional ways to identify, for some reason, wasn't working.

SENATOR HALL: My understanding of the purpose for this is to check a felony criminal record, run a felony criminal records check on these individuals prior to licensing. If they are able to show without giving prints that they have been licensed in other areas through other identifying features, such as the

traditional ones that we're all familiar with, place of residence, name, Social Security number, birth date, those types of things, that check would be made by the commission. I'm sure they would do that. I don't think they would just let it slip through the cracks because they filled out the appropriate box in this case. But, to my knowledge, I don't know that there is a problem out there now. I don't think that's been the issue. The issue is they want to be able to run that check. All I'm saying is that when these individuals function in as many as 20 states they have filed fingerprints at least once because not all states have this provision. Nebraska is, I think, one of only a handful who will have it on line with the passage of this bill...

SPEAKER BAACK: One minute.

SENATOR HALL: ...that there should not be a problem by saying they're in the system.

SPEAKER BAACK: Senator Smith, further discussion?

SENATOR SMITH: Thank you, Mr. Speaker. Just a little bit. Maybe a little bit more explanation to Senator Warner. When we had the amendment this morning when he tried to strike the part that dealt with fingerprinting, mainly all I could tell you was that this was brought to us by the commission. This has been like the second year. The bill was out of committee last year but didn't move across the floor because it wasn't a priority. And the main purpose, really, is to keep felons from obtaining a license and becoming a part of the racing industry. We want to keep the industry clean in the state and then also to put it on the same playing field, if you want to call it that, as other types of gambling activity and with liquor law. Right now, those who apply for licenses for liquor have to have...be able to be fingerprinted as well as anyone involved in gambling activity. And so it just places it on the same footing. And I think that...I would like to ask Senator Hall's opinion on something here on the amendment.

SPEAKER BAACK: Senator Hall.

SENATOR HALL: Senator Smith, that's dangerous but all right.

SENATOR SMITH: This is going to be pretty easy, I think, Tim. Tim, what I think I'm seeing here is another thing that we

haven't discussed and that is that if you are ending up having, you know, if you're licensed every five years, this is kind of a little protection or a stopgap measure, basically, for those licensee's who don't apply in any other state but in Nebraska, right?

SENATOR HALL: That's correct.

SENATOR SMITH: And you know you're getting those then where those that already have applied in other states have already been fingerprinted and so this is just...this is just precluding that duplication of fingerprinting. It costs \$23 in Nebraska, basically, I think to be fingerprinted.

SENATOR HALL: Right. That's correct. And these people...and not every state has the fingerprinting provision in place. I think Nebraska will be one of about, I think, it's under 10 states that currently have this provision and there are a number of other states that have parimutuel wagering over and above that. So this is something that's been in the process of being put in place across the country but it hasn't caught on like wildfire. I have opposed it. It's going to take place and be passed through LB 200. There just shouldn't be any duplication. And, again, it's only \$23 but some of these people are working for minimum wage. Granted, that's gone up but still \$23 is still \$23.

SENATOR SMITH: Right, and so, unless if you had some other questions, Senator Warner, I would certainly be glad to try to respond to them. Okay, based on that then, I think that, as far as I'm concerned, I'm satisfied with the explanation that's been given to us on this and, again, I'm going to support the amendment. Thank you.

SPEAKER BAACK: Thank you, Senator Smith. Anyone else wishing to discuss this amendment? Seeing no other lights, Senator Hall, do you wish to close? He waives closing. We will now proceed to vote on the Hall amendment to LB 200. All those in favor vote aye, opposed vote no. Record, Mr. Clerk.

CLERK: 26 ayes, 0 nays, Mr. President, on adoption of Senator Hall's amendment.

SPEAKER BAACK: Senator Hall's amendment is adopted. Anything further on the bill?



CLERK: Senator Hall would move to amend. Senator, I have AM855. (The Hall amendment appears on page 1431 of the Legislative Journal.)

SPEAKER BAACK: Senator Hall.

SENATOR HALL: Thank you, Mr. President. Mr. Speaker and members, the amendment, as passed out, is 855 and it has a large number 3 in the upper left-hand corner. What this amendment does is it lumps everybody in, puts the big boys in with the little boys. It puts the folks who oversee the track, who make decisions on who runs there, on when the dates are, where the money goes, how is it spent. It says those individuals who work in this area of gambling ought to have an FBI check run on them as well. So, in other words, this is what the amendment reads. It says any person involved in the administration or management of a race track, including the governing body, shall be subject to fingerprinting and a check of his or her criminal history record information maintained by the Identification Division of the Federal Bureau of Investigation. And what that says is that if we're going to do the stable boy out back because they happen to work in that area and have potential to, I guess, fix a race, if you will, we want to see what their criminal history record is that I think it's only appropriate. I'll agree that the individual at the concession stand probably doesn't have much ability for that to take place but the folks who let these people run, in other words, give them the ability to come to the track, set the rules and regulations of the track, deal with the income from the track and govern the overall operation ought to have a criminal history record on them as well. Their fingerprints should be taken. What does that mean? It means that if I'm willing to say I want to run a race track, I ought to be willing to let my fingerprints be run through the FBI's operation to see what my criminal history is. I think it's an appropriate amendment and I would urge its adoption. Again, I would yield the balance of any time to Senator Smith.

SPEAKER BAACK: Senator Smith, you have about eight minutes.

SENATOR SMITH: Thank you, Mr. Speaker, and this is why I'm not giving up my time. I guess that I would like to raise a question that has come to my mind, Senator Hall, and again I'm going to ask if you would yield to a question.

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SENATOR HALL: Yes.

SPEAKER BAACK: Senator Hall.

SENATOR HALL: Always.

SENATOR SMITH: In just looking at this and thinking about it a little bit and discussing it with the committee counsel, the question is raised that these people are not, themselves, licensed in Nebraska. And I'm informed that under due process there has to be some form of basis for requiring, for instance, the fingerprinting of licensee's and the basis, in this case, is that they are licensed and the license precludes anyone unlicensed from engaging in the activity for which they have been licensed. I'm just raising that as a question at this point in time.

SENATOR HALL: Okay. All right.

SENATOR SMITH: And do you have a concern about that?

SENATOR HALL: I do not, Senator Smith, because in this state we license race tracks. And these are the individuals that stand behind those licenses that we sanction, that the commission sanctions for that track. In other words, we don't grant the license to the real property that is out there, we grant it to the, for example, the Board of Governors at Ak-Sar-Ben who operate the track and then we list whoever the Executive Director might be there, and their staff, Don Drew, for example, at Ak-Sar-Ben. Those are the people that, I think, fall under the issue of licensing the track and I recognize the question that the counsel raises and it's a good one. But I think they're covered there because we do grant licenses for tracks and if there weren't individuals that stood behind those, then I guess it would be a different story. But, in this case, those are the individuals who make that decision and those are the ones who decide on many of the issues with regard to operation, if not all, of the track and I think that it is appropriate that we know that there are no past felons in those areas as well.

SENATOR SMITH: Thank you, Senator Hall. I wanted to have this in the record because this was a question that was brought and so I think that we just wanted to have this discussion. And I am going to add that at least on two occasions, in my memory without checking the record, I do remember, and I mentioned that

earlier this morning on the first Hall amendment when I was going to oppose it, the fact that in hearings that we held on this same issue last year which, as I said, was passed out onto the floor, and then again in an interim study hearing that we held in Omaha, I believe, if my memory serves me correctly, Senator Hall raised this concern. And on both of those occasions, at least I know, he was...his request or his question to them, would you be opposed to being...if it's so important, would you be opposed to being fingerprinted your own self? And they responded in the affirmative. Those people that were there representing the Racing Commission administration and the management did respond affirmatively that they would not be opposed to themselves being fingerprinted. So, based on that, since they didn't raise the issue that I just raised and the fact that they have twice, in my memory, said they would not be opposed to this, I am going to support this amendment also. Thank you.

SPEAKER BAACK: Is there any other discussion? Senator Smith, your light is still on, did you wish to discuss it further? Okay. Any other discussion of the amendment? Seeing none, Senator Hall, do you wish to close? He waives closing. We will now proceed to a vote on the amendment as offered by Senator Hall. All those in favor vote aye, opposed vote no. We are voting on the amendment by Senator Hall. Have you all voted? Record, Mr. Clerk.

CLERK: 25 ayes, 1 nay, Mr. President, on adoption of Senator Hall's amendment.

SPEAKER BAACK: Senator Hall's amendment is adopted. The next item.

CLERK: Mr. President, Senator Smith and Schellpeper would move to amend the bill.

SPEAKER BAACK: Senator, I have AM1033 in front of me. (The Smith-Schellpeper amendment appears on pages 1431-34 of the Legislative Journal.)

SPEAKER BAACK: Senator Smith.

SENATOR SMITH: Yes, thank you, Mr. Speaker. And that amendment has been distributed on the floor as well as two handouts to accompany it. And the reason I want to make very sure everyone

has the amendment and the handouts to accompany it is because this is something that I'm going to be very up front with you which has not had a public hearing. This amendment deals with the critical funding problem currently being experienced by the State Racing Commission. Now those of you that are in this body now are going to remember that I've never been real supportive of the State Racing Commission and it took some convincing on their part before I finally then did see that this was necessary as far as I'm concerned. And I'm going to try to explain to you the reasons why. Senator Schellpeper, I believe, and I don't want to speak for him, but I know in our discussions he felt the same way originally as I did and we both came to feel that this is something that needs to be done in order for the commission to maintain its present regulatory functions until they can find a long-term solution to the funding problem that they are now addressing. The changes in this amendment won't fund any presently unfunded staff or any new areas of regulation. It simply allows them to continue. They have a budget shortfall. They've been in real budget straits. They showed me a lot of materials and information which really, for me, confirmed the fact that they are in need of this amendment. So the problem is that they have had decreasing revenue at a time when expenditures are increasing due to increased regulatory responsibilities. And I know that any one of you that have been around for some time recall that we have allowed the capability for simulcasting interstate and intrastate for race tracks in the State of Nebraska, along with the bills that were brought in by the industry. There was never any provision to then fund that added regulatory responsibility that the commission took on. At the same time that there has been some need for them to have hired on...and I will talk a little bit about that, some of the things that they have had to do in the past, but if you will look at your handout number 1, this information provides a summary of the commission's receipts and expenditures since 1985. And, basically, the decreasing revenue summary says the primary revenue source for commission funding comes from the 30 cent admission tax at the gate. Lower attendance at the tracks has decreased the commission's primary source of funding by \$150,000 since 1985, and it's down more than 57,000 from '89 to '90. This is a drop of 33 percent since 1985 and a drop of 16 percent since 1989. And the attendance records even for Fonner Park for this year indicate that that trend is continuing downward. Total commission revenue is also down. Total revenue from admission tax, daily license fees paid by tracks, occupational licenses, interest earned on a cash fund and minor

miscellaneous receipts totaled \$469,988 in 1990. And this compares to \$660,878 in 1985, and then going on down. So what you see then is a drop of 29 percent since 1985 and this last year alone 12 percent. They have had increasing expenditures. I already mentioned a little bit about that to you. Between the years of '85 to '88, racing commission expenditures increased 6.1 percent which is an average of 1.5 percent each year and they gave you some figures there for amounts. A total increase of 26 percent compared to 1988 in 1989. This significant increase was due to the increased regulatory responsibility that we gave to them when we authorized simulcasting. In 1990, if fully funded, commission expenditures would have increased to \$569,650 and this increase is due to the addition of an official state veterinarian and veterinarian assistant as state employees. However, due to decreasing revenue, the commission reduced its expenditures from \$520,475 in 1989 to \$491,957 in 1990. And because of drastic declines in revenues, the commission has had to cut some staff and leave certain regulatory programs unfunded. They have had the increased responsibilities, as I mentioned to you, with the simulcasting of the thoroughbred races and the days of live racing and so that's been part of what this has been all about. The amendment then will do two things. This is the way we're trying to address the problem and it doesn't do everything they would like to have it do, quite honestly. They asked if we would allow them to take the parimutuel tax which was set to come back on again this next year and divert that fund to their budget. And I said I will not support doing that. And so what we've done is simply addressed for the short time now until the next...until next year when we can...we're going to look at this as an interim study and we're going to, if you will support this, help them to limp through. One of the things that he explained to me and he showed me was that they didn't pay their phone bill for seven months, trying to scrimp by, because they have the requirement, for one thing, that they have to keep so much money in the Cash Fund which is supposed to go to the...if they have a certain amount of money in there, they...it's supposed to go to the state...or the county fairs. They haven't been doing that for years anyway so here are the two things that my amendment will do. First, it increases the amount that the commission can carry forward in its Cash Fund for expenses before making distributions to county fairs. And we've raised that from \$5,000 which, by the way, hasn't been changed since, I think, 1935, to \$50,000. And this will enable the racing commission to cover its day to day expenses that way by having that money flow

in through there. Secondly, the daily license fees paid by race tracks are increased to provide additional funding. And the population for each class is adjusted to address an inequity between Fonner Park and State Fair Park. In addition, the amendment proposes daily license fees for interstate and intrastate simulcasting. You have a handout, number 2, which shows the current daily license fees. You see what they're paying now and the proposed daily license fees under this amendment. In essence, it breaks...tracks in counties with populations between 40,000 to 300,000 will pay \$50 per day more and tracks in counties with populations under 40,000 will pay \$20 more per day. Basically, there was an inequity between Fonner Park in Grand Island and the State Fair Park, as I have already mentioned. Fonner Park and State Fair Park have comparable handles. Actually, Fonner Park takes in more handle than State Fair Park does. Yet due to the 1990 census, State Fair Park will pay \$400 per day and Fonner Park will only pay \$30 per day in license fees. So to address this inequity and to bring in the dollars that they absolutely have to have in order to continue, the population classifications have been adjusted to place Fonner Park and State Fair Park in the same class which would pay \$150 per day. These changes to the daily license fees would become effective January 1st of 1992. And, as I have mentioned, we do propose an interim study to look at the Racing Commission statutes in relation to the regulatory responsibilities which we have placed on them and funding in order to find a long-term solution to the Racing Commission's funding problems. As I said, this did not have a public hearing and I have to also tell you that they did bring this issue to me as a concern, as Chairman of the committee, and I said I'm not handling it, give it to somebody else. And they didn't give it to somebody else or somebody else wouldn't take it, I don't know which. And then they did bring the issue back up again to me in the last few weeks and, finally, I sat down and visited with them and it took us quite a while one day last week and I then saw the need for doing this. I will try to answer any questions but I'm saying to you that I don't think we have any choice in this and I would ask for your support in this amendment. Thank you.

SPEAKER BAACK: Thank you, Senator Smith. Senator Withem.

SENATOR WITHEM: Yes, Mr. Speaker, reluctantly I would need to stand to question the germaneness of this amendment. The bill, itself, deals with the commission's powers to prescribe and

enforce rules and regulations governing horse racing and race meetings, provides for fingerprinting of individuals, provides for revocation or suspension of licenses. The amendment adds an entire new section dealing with funding of the racing commission. I think those are two separate issues and would challenge the germaneness of this amendment.

SPEAKER BAACK: Senator Smith, would you like to respond?

SENATOR SMITH: Just say that I...they do address a couple things that I believe makes it germane. Number one, it is the same section of the statutes. And, secondly, in any of our gambling bills that we have dealt with in the committee and on the floor, we deal with these issues and with fees in conjunction with them. Those are the only reasons I would have for substantiation of why I feel this is germane but I would...I would let you make that decision for us and if not, then I guess I would ask to overrule the Chair in an effort to try to still go ahead with the amendment.

SPEAKER BAACK: Senator Withem, I am going to rule that it is germane, that it does...I think our rules do talk about logical and coming in sequence. I think that should I...if I would interpret this as not germane, I think we would be getting to a standard of extremely strict interpretation of our rules. I think our rules do allow for this so I am going to rule that it is germane. You may challenge if you are so inclined. Senator Withem.

SENATOR WITHEM: Yes, Mr. Speaker, I'm not going to challenge the decision of the Chair. I just...I'm interested in these types of issues because of the precedence that they set and we have fees raised that really have little or nothing to do with the other section of the bill. If that is the standard by which we're going to be judging germaneness during the final few weeks of the session, I think, you know, the precedent needs to stand, members of the body need to understand what it is. I will not be challenging the Chair.

SPEAKER BAACK: We are back to discussing the Smith amendment then. Senator Abboud. He waives off. Senator Schellpeper, on the Smith amendment.

SENATOR SCHELLPEPER: Thank you, Mr. Chairman, and members, I rise to support this amendment. I think it's an amendment

that's going to make it a lot more fair for all of the race tracks. I met with the commission, I think, three times this session already where they think they have to have more funds. And I think I kind of agree after listening to them that they probably do need the extra 20 to 30,000. So I think this is probably a way to go since we have simulcasting now and they have to be at these race tracks a lot more, that it's something we probably need to do to help the commission. So I would support the amendment. Thank you.

SPEAKER BAACK: Thank you, Senator Schellpeper. Senator Hartnett, on the amendment.

SENATOR HARTNETT: Mr. Speaker and members of the body, if I could ask Senator Smith a question.

SPEAKER BAACK: Senator Smith, would you respond, please.

SENATOR HARTNETT: I think maybe Senator Schellpeper maybe answered. That...that's only 20 to \$30,000 over the racing season? That wasn't clear on your...

SENATOR SMITH: No.

SENATOR HARTNETT: ...handout number 2. That's...

SENATOR SMITH: Are you speaking to me, Senator?

SENATOR HARTNETT: Yes, I'm speaking to you.

SENATOR SMITH: It's anticipated that this will only bring in 20 to 30,000 additional dollars to their budget by the increase in the fees because of the fact that this is going to tide them over, we hope, until we can actually deal with the whole issue of their budget.

SENATOR HARTNETT: But it's just 20 to \$30,000 over the whole racing season?

SENATOR SMITH: Yes, that's all that they can expect to bring in.

SENATOR HARTNETT: Yeah, thank you.

SPEAKER BAACK: Thank you, Senator Hartnett. Senator Smith,



your light is on, did you wish to discuss this further?

SENATOR SMITH: Are there other lights?

SPEAKER BAACK: Yes, there are.

SENATOR SMITH: I would just say one thing then, Mr. Speaker, members of the body, again in response to Senator Withem's concern and for your benefit, Senator Withem. We...this is the reason that their budget is in the, you know, the situation that it's in is because, again, I probably am partially to blame for this. We provided them with another new increase requirement and we didn't include any fee increases as a part of that. And that's what happened with the simulcasting bill that we passed, you know, in prior years, among other things. And so that's why I feel that what we are doing in this bill is increasing their responsibility of regulatory duties by what we're asking for with the fingerprinting, which is a new responsibility. And so that, to me, it does justify the reason why we would need to expand their budget then. So I hope that kind of helps a little bit to answer your concern. But, based on that again, I don't know whether I'm going to bother to go through everything I've gone through again. But if there are questions, I will try to respond to them. Thank you.

SPEAKER BAACK: Thank you, Senator Smith. I would like to, before we continue to the next speaker, I would like to introduce some guests of Senator Wehrbein. They are under the south balcony. They are Don Ainsworth, Roger Davis, John Davis and Steve Mahanes, and they're all from the Nebraska City School for the Visually Handicapped. Would you please stand and be welcomed by the Legislature. Thanks for being with us. Senator Hall.

SENATOR HALL: Thank you, Mr. Speaker, and members, I rise to oppose Senator Smith's amendment but I don't...Senator Smith, none of this is directed at you because I've been in the same situation where I've been asked to carry an amendment for the department, whatever it might be, as many of us have on specific issues. And this is clearly not directed at you. But this issue deals with increasing fees, fees to individuals who are in the industry, who have never been asked about increasing the fees for some of these issues such as regulation and oversight that Senator Smith clearly and accurately points out that we've increased. If they were that important, if the need was that

great for the department's budget, for the commission's budget, then why didn't they bring in the bill? Why didn't they have a public hearing on it and sit down and talk to the individuals in the industry? That never happened. I just went out back and talked to the horsemen and they said, nobody came to us on this issue outside of Senator Smith. She is the only one that has mentioned it. The commission never raised this issue with either the horsemen, the track, or anyone. Maybe they talked to some of the other tracks. I know they did not talk to the track in Omaha. And they're coming in with an increase, although it only amounts to 20 to \$30,000, it's a considerable increase in terms of the amount of the fee, percentagewise. Now it doesn't represent a whole lot of dollars and it's a stopgap proposal, as Senator Smith says, until they address it long range. But why didn't they bring in the bill in front of the committee and let the industry testify on it? If it was that needed, that important, then they should have done that. What they have done is said, well, we'll put it up, we'll ask Senator Smith to offer it as a Select File amendment because we can't find anybody else to do it, even though she sent them out to look, and she gets stuck holding the bag because she Chairs the committee, as many of us have had to do. But, in this case, nobody asked, nobody asked the industry if they would support this, if they would even address it. Had they asked, I think the amendment would have gone on probably as part of the committee amendments or would have been introduced as a bill, in the first place, or as a part of this bill the way it should have been. That's my objection to it, that and the fact that they're asking for the revenue after the fact. They've also asked, and we have asked, for the increase, in many cases they've been there asking for the increase in terms of regulation and oversight because of some of the problems that they have seen, they being the commission. Well, they can also ask for the revenue to help with that. The cost, for example, of the fingerprints is borne by those individuals who have to be fingerprinted. There should be no cost to the commission. It's a cash funded proposal. This is an increase in fees that the industry has had no say in. Nobody from the commission went to the industry, to the horsemen, and said, how do you guys feel about this? We need this to help offset some of the increased costs. Normally, there is a public hearing on those kinds of things. Normally, they're addressed in the committee through a hearing. That hasn't been the case here. I'm going to oppose the amendment. It is clearly no reflection on Senator Smith.

SPEAKER BAACK: Thank you, Senator Hall. Senator Withem.

SENATOR WITHEM: Yes, Mr. Speaker and members of the body, I'm going to join Senator Hall in opposing the amendment, again, not because of any of Senator Smith's motivations in bringing this proposal or in what it seeks to accomplish. But I have a couple of concerns. Number one is a procedural concern. And I think we ought to...we all occasionally slip beyond the ideals of what we all consider to be proper legislative activity but when you increase a fee, in essence, you're increasing a tax that an individual group of people have to pay without a public hearing, without a bill introduction, without a public hearing and with a Select File amendment. Keep in mind, Select File amendment is somewhat different from General File amendment in that there is less time to react. In theory, there is no further opportunity to amend a bill after it leaves Select File and there is a reluctance to bring bills back from Final Reading. So we will be, if we vote for this, imposing a fee increase on a group of individuals who have had no opportunity to react and then we're sending a bill on to Final Reading to be in its final form. Very concerned about those procedures. If we are going to make changes of this kind, it really ought to be through, at the very least, a General File amendment, not a Select File amendment. Secondly, I'm concerned about fee increases. I...I'm reluctant to state this, I almost said I've been around here awhile and then that makes me feel like an old person so I'm trying to think of a gentler way to say that. But I was around during the times when Bob Kerrey was Governor, back when this body was going through tough economic times before, money wasn't flowing into the General Fund as quickly as we anticipated it and there was a tendency in those days to find fee increases to fund governmental programs. Any fee that had not been increased in the last three or four years was subject to somebody finding the fee, of raising a fee to fund a particular program. Fees are dollars that are generated out of Nebraskan's pockets. They are a little more closely identified with particular individuals and they aren't general taxes but they are dollars that come from our taxpayers and in this case they're dollars coming from Nebraska taxpayers, Nebraska citizens, that will be used to fund a function of government, that function of government being the regulation of the horse racing industry. I understand again where Senator Smith is coming from and understand why she is bringing the amendment. I just don't feel comfortable supporting it and I'm not going to vote for it.

SPEAKER BAACK: Thank you, Senator Withem. Senator Nelson.

SENATOR NELSON: Mr. Speaker, I feel sorry for my dear friend, Senator Smith, and I know what we get behind of when we're a committee chair. I guess that it seems like I think we're spending way too long on some of these bills and we probably have had many others in the same position here. When you talk about increase, I can see that Fonner Park has been increased 500 percent. And when we talked about salary increases or so on for the senators, boy, 200 or 250 percent. I also appreciate the fact that for some reason or another they didn't say anything about the needed increase but I did check with people more knowledgeable than I a few minutes ago and I find that they have come back to some of the race tracks now for some additional help so maybe they're going to pay for it one way or the other. I don't know what Senator Smith thinks about increasing mine from 30 to \$150 a day, but I guess I will just accept it because I think she's got worse things coming down the line. Senator Smith, would you care to respond why I got a 500 percent increase over the Fonner Park?

SPEAKER BAACK: Senator Smith.

SENATOR SMITH: May I respond. Because Fonner Park is the only one that's making any money. (Laughter.)

SENATOR NELSON: Pardon.

SENATOR SMITH: No, I said because Fonner Park is the only one making any money but that isn't the reason. It was based on population and what comes in, the amount of money that comes into the track. And, really, it's true, Fonner Park is almost the biggest track in the state at this point in time. And it was really unfair based on what they were having to pay compared to those other tracks that were comparable in the amount of the handle, you know, money that came in.

SENATOR NELSON: I will be nice to you but don't forget it.

SENATOR SMITH: Thanks. (Laughter.)

SPEAKER BAACK: Thank you, Senator Nelson. Is there anyone else wishing to discuss the bill? Seeing no one, Senator Smith, yours is the only light on, do you wish to close on your amendment?

SENATOR SMITH: I will do the best I can, Mr. Speaker. Again, what I will do is just tell you that I can't argue against the points that have been made on the floor by Senators Withem and Senator Nelson. I know she was taken by surprise. It's not a real great thing to do but I would have guessed that...I mean, I would have thought that they would have been in touch with the tracks before this time. I know that I, personally, did get in touch with my track and Senator Schellpeper was in touch with his tracks, so those two tracks, at least, were aware of it. And, again, I can't argue. I can tell you that your argument about the fact that it did not have a public hearing is a legitimate one. I stated that when I rose, the very first thing I said was I'm not going to try to tell you that this did have a public hearing because it didn't. And I will also tell you that they did tell me about their concern for their budget before the session began this year and I would not deal with it. I wouldn't talk with them about it. And I told them, go someplace else if you want help. Let some other senator that you have been benefiting, basically, because I...I'll be real open with all of you on the floor, I feel that the track in Hastings has taken it in the shorts, if you want to call it that, ever since I've been here. In the seven years that I've been here, they've never gotten anything. And so I'm not really sympathetic to the racing industry in the state. But the truth of the matter is they do have a regulatory responsibility. They must have a budget in order to function. And the very people who are complaining, the racing...or the horsemen right now who just came in and told us about this concern, and I realize they didn't know much about it before either but still those people, this is for their protection that we have the regulatory responsibility placed here in this...in the Racing Commission. If you didn't have that, you would have havoc in the racing industry in Nebraska, probably. Again, this is not my issue. I'm doing it as Chairman of the committee because I was convinced when I sat down, went through the budget with them, saw that they legitimately do have a need to be able to regulate. They've got to be able to have money to continue their operations. And, based on that, the only thing I can tell you is I was told that they go before the Appropriations Committee with their request, after I turned them down originally and that was not the appropriate place, they were told they should try to come and see if they could get it attached to some bill which they did then come back to me again. So, based on all these things, and again my apologies to

everyone for the commission, not for myself, because they're the ones that are the regulators, they're the ones that have the industry. All of you people that have tracks, all of you people that are concerned about the horsemen, you should be thinking about the need for the commission to regulate for their sake and they should be thinking of that same thing too. There has not been a fee increase for some period of time. So this is not the same as coming in the back door and taxing the taxpayers. The taxpayers that use...that are paying into this, by the way we're having the amendment written, are the ones that go to the tracks and use the tracks, of their own free will, by the way. So I would ask you to seriously consider supporting this amendment and again we're going to have an interim study and we'll try to address the whole issue of their budget during the interim. With that, I would ask for your support for the amendment. Thank you.

SPEAKER BAACK: You've heard Senator Smith's closing. We will now proceed to vote on the amendment as offered by Senator Smith. All those in favor vote aye, opposed vote no. We are voting on the amendment offered by Senator Smith to LB 200. Have you all voted? Have you all voted? Have you all voted? Senator Smith.

SENATOR SMITH: (Microphone not activated) ...to do it, because probably it's not going to do me any good anyway, but I'm going to ask for a call of the house and a roll call vote.

SPEAKER BAACK: We have a request for a call of the house. All those in favor vote aye, opposed vote no. Record, Mr. Clerk.

CLERK: 18 ayes, 0 nays to go under call.

SPEAKER BAACK: The house is under call. All members please report to the Chamber and record your presence. The house is under call. The house is under call. All members please report to the Chamber and record your presence. The house is under call. While we're awaiting the arrival of the rest of our colleagues, I would like to introduce some guests of Senator Warner. We have Hollis Craig, Bill Towner and Drew Warner who is Senator Warner's grandson. And they are under the north balcony. Would you please stand and be welcomed by the Legislature. Thank you for being with us. The house is under call. All members please report to the Chamber and record your presence. The house is under call. We're looking for Senators

Rod Johnson, Peterson and Schimek. Looking for Senators Wesely and Will. Senator Haberman. We are looking for Senator Haberman. Senator Haberman has arrived. All members are present. We have a request for a roll call vote on Senator Smith's amendment. Senator Smith, did you want this in reverse order? In reverse order.

CLERK: (Roll call vote taken. See pages 1434-35 of the Legislative Journal.) 13 ayes, 20 nays, Mr. President.

SPEAKER BAACK: The amendment fails. The call is raised. The next item, Mr. Clerk.

CLERK: Mr. President, Senator Beutler would move to amend. (The Beutler amendment appears on page 1435 of the Legislative Journal.)

SPEAKER BAACK: Senator Beutler.

SENATOR BEUTLER: Mr. Speaker, members of the Legislature, this is an amendment which I have run by both Senator Smith and I have had a meeting with the Racing Commission on this. And, basically, it makes a distinction with regard to the fingerprinting provision and indicates that, with regard to the persons who are already holding a license, there will not be any fingerprinting because there is no present problem with the people that are there now and it limits the fingerprinting to the people who come on board or who are hired by the commission after the effective date of the act. Both the commission and Senator Smith, as I understand it, have no problem with this particular amendment. The only purpose of the amendment, a lot of people don't like fingerprinting, this gives people fair notice that if they're coming to work in these particular areas, they will be fingerprinted. And, furthermore, I think it will be consistent probably with the treatment that we will give to teachers in the future when that bill comes before us. That bill makes a distinction between those that are already hired and those who will be hired in the future. And I think that it behooves us to treat all of the different professions that we see fit to require fingerprinting of, to treat them all equally and, basically, this sets up a mechanism for dealing with people on a consistent basis. The amendment is in front of you. It has been passed out. You will notice the commission did ask for the right to fingerprint certain individuals who are already hired, those being individuals who they know, through

application forms, past application forms, have been convicted of a felony or convicted of a drug related or alcohol related felony or a gambling violation resulting in a certain type of suspension. So those would be the only categories of individuals who are presently licensed who would be fingerprinted. Otherwise, the distinction would hold as between those who are currently employed and those who will become employed in the future. I think that explains the amendment. I would say that there is one penciled in portion of the amendment that is not on the amendment passed out to you and that, basically, just takes into account Senator Hall's amendment with regard to persons involved in administration or management and, basically, would treat them the same way as licensed persons are treated under this amendment. In other words, the distinction would hold there too as between those who are hired as of the...on the effective date of the act and those who are hired at a later point in time. That's all the amendment does. I would move the adoption.

SPEAKER BAACK: Thank you, Senator Beutler. Discussion on the amendment? Senator Warner.

SENATOR WARNER: Mr. President and members of the Legislature, I have to admit I'm getting a little confused. I read the committee statement and I see everybody appeared in support and since we've taken up the bill on Select File all we've done is had amendments offered or adopted that apparently have reduced the requirements for fingerprinting from the public hearing which was the proper place, of course, to issue these concerns rather than waiting till Select File to find a problem with the bill. And, certainly, it had a public hearing and apparently there was no opposition at a public hearing, at least they're all shown as proponents and I keep wondering what, you know, what's really going on. I can't help but believe that there must have been a reason for the fingerprinting and it had to be, it would seem to me, that the Racing Commission found that just filling out an application form where you check the form that said you had no felony convictions or the other restrictions wasn't working. Now I suspect before we get done here today we'll have everything excluded, if we haven't already, and we probably should have just as well went ahead with Senator Hall's amendment in the first place, saved a lot of time. But I think I'm going to vote no at this time because I've...there has to be a reason and the reason that...the only reason you could justify is that filling out an application and checking a box that you



have no previous violation is not adequate to check. And, as a matter of fact, if you are using someone else's name and someone else's Social Security number, there would be no way to check, short of the fingerprinting, or maybe we're fighting some battle that I don't know what it is that is some other legislation, that I assume is not beyond the realm of possibility. But, in any event, if there is a need to be able to accurately determine whether an individual is filling out these application forms correctly and truthfully, I don't know if there is any penalty for failing to fill it out accurately, other than I suppose you could have the license denied if they could figure out some way to find out. But I'm beginning to have strong reservations for all these exceptions on a bill which apparently nobody who was affected felt it was bad enough that they appeared in opposition at the public hearing. Short of that, I'm planning to vote no.

SPEAKER BAACK: Thank you, Senator Warner. Senator Smith.

SENATOR SMITH: Mr. Speaker and members of the body, basically, as far as the Beutler amendment is concerned, I've just seen that and I have heard, I mean I've heard him discuss this issue before this but I have just seen that on the side and the language that he said he just added in, just showed to us on the side here too, and I guess I sort of feel like Senator Warner is feeling right now. The only thing is that I do want to make it very clear, Senator Warner, that...and I did mention this a couple of times in the course of all these hours that we've been dealing with these amendments that, to be fair to Senator Hall, and probably it, again, my memory just has to serve me here in this case but I know that we have said at least on a couple of occasions this thing about fingerprinting and whether or not we should include everyone. You're right, those people did not argue about the fact that they should be fingerprinted. What they were concerned about and the concern that was expressed by Senator Hall was that if it's important for them to be fingerprinted, then everyone in the racing industry should be fingerprinted, including the white collar people. And they had no opposition to that. And so that's what I've been supportive of because they stated that they didn't have any concern about it. But, you know, I guess I'm glad you brought this...I wish you would have brought this to my attention a little earlier, I would have used that in arguments when I was arguing with other people about people coming in with testimony and being proponents of the bill and then coming out now behind the glass, suddenly deciding we don't want this and so then it goes down

kind of a thing. And so I guess that since we've done what we've done on the other amendments that all this is doing, in my understanding with Senator Beutler, is it's making it consistent with what we're anticipating will be another fingerprinting bill coming up down the pike. I don't know whether it has any bearing on it or not and maybe, in closing, you would further explain why you feel this has anything to do with the racing industry. Thank you.

SPEAKER BAACK: Thank you, Senator Smith.. Further discussion? Senator Hall.

SENATOR HALL: Thank you, Mr. Speaker, and members, Senator Beutler, if you would respond to a question or two.

SPEAKER BAACK: Senator Beutler.

SENATOR HALL: Chris, what is the...the amendment, does it expand the issue of the felony provisions, the drug related, the alcohol related? Is any of that an expansion of the current legislation?

SPEAKER BEUTLER: I'm not sure in what sense you mean that, Senator Hall. I'm not...

SENATOR HALL: The bill currently just deals with felony, criminal felony convictions and the language in the amendment I think specifically spelled out drug related, alcohol related felony misdemeanor within the five-year period prior to making application for license. I mean, it says convicted of a felony and then it adds comma, has been convicted of a drug related or alcohol related felony or misdemeanor within the five-year period. We do add the term "misdemeanor" which is another class of penalty, I mean, it's another crime...

SENATOR BEUTLER: Right now you're fingerprinting...you're fingerprinting everybody anyway, right, regardless of whether they're involved with a felony or not or a misdemeanor or whatever. So...

SENATOR HALL: But with...but with the amendment, right, but with the amendment, somebody who, for example, is pulled over in a, oh, a traffic stop for, I guess, rolling through a stop sign, they're found to be under the influence, does that mean that...and that would be classified as a misdemeanor. Correct?

SENATOR BEUTLER: I would think so.

SENATOR HALL: Okay.

SENATOR BEUTLER: If it's a...if it's a...if it says it on a ticketed offense anyway, yes.

SENATOR HALL: Class W but it's still a misdemeanor.

SENATOR BEUTLER: Yes, okay.

SENATOR HALL: And then the issue is are those individuals going to be denied a license? Because, I mean, my point is right now everything is a felony.

SENATOR BEUTLER: Well, it doesn't...I don't think it changes the criteria under which they would deny a license. It just...it just...all it does is affect the criteria where you would do the fingerprinting, under which you would do the fingerprinting.

SENATOR HALL: Okay, so, in other words, what it does then, for clarification's sake, it says if they have been convicted of a felony or drug related or alcohol related felony or misdemeanor, they would then have to be fingerprinted?

SENATOR BEUTLER: Yes.

SENATOR HALL: That's the way the language reads.

SENATOR BEUTLER: Yes.

SENATOR HALL: Okay. All right, that's just for...everybody else prior to that would be basically grandfathered in. Is that correct?

SENATOR BEUTLER: That's right.

SENATOR HALL: Thank you.

SPEAKER BAACK: Thank you, Senator Hall. Senator Abboud.

SENATOR ABOUD: Yes, Mr. President, colleagues, I have a question for Senator Beutler.

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SPEAKER BAACK: Senator Beutler, would you respond, please.

SENATOR BEUTLER: Yes.

SENATOR ABBODD: Senator Beutler, is your amendment 1051? Is that the amendment?

SENATOR BEUTLER: Yes.

SENATOR ABBODD: I was...I was reading through the amendment and the way I understand the bill it was to fingerprint individuals, I guess, to find out their identity, whether they're being truthful or not on their application. Isn't that...is that what you interpret the bill to do?

SENATOR BEUTLER: Well, I don't know all the reasons why they want the fingerprinting, Senator Abboud. Well, perhaps, I assume that is part of the incentive, right.

SENATOR ABBODD: So if a person...the way I'm reading your amendment, if a person has been convicted of a felony, and has been convicted of a drug related or alcohol related felony, or misdemeanor, within a five-year period, then that person does not have to be fingerprinted?

SENATOR BEUTLER: Then that person would be fingerprinted.

SENATOR ABBODD: Would be fingerprinted.

SENATOR BEUTLER: Uh-huh.

SENATOR ABBODD: Okay. So this is an additional requirement if these people have been convicted of the charges, then notwithstanding the exemptions provided by Senator Hall's amendment they will have to be fingerprinted?

SENATOR BEUTLER: No, this really...this really deals with a different kind of categorization than Senator Hall was doing. Basically, this divides people into two groups, those who have already been licensed as of the effective date of the act and those who have not. And with regard to those who are already licensed, it says you don't have to be fingerprinted because there is no problem. We have been working with you for years and we know you're all right, we don't need to go through this

fingerprinting procedure. Except, and the exception, in that one large category of those who are already licensed are these that you see in the amendment that you were just asking me about. If those who are already licensed have one of these problems, then they can request that they be fingerprinted.

SENATOR ABOUD: Okay. And what's the purpose of that?

SENATOR BEUTLER: What is the purpose of that?

SENATOR ABOUD: Yeah.

SENATOR BEUTLER: I suppose so that they can do further checks on those individuals where they suspect that there might be a problem.

SENATOR ABOUD: These are...these are higher risk individuals. Is that what you mean?

SENATOR BEUTLER: I think that's the...I think that's the logic of it, Senator Abboud, yeah. This amendment, I put an amendment on this bill on, I think it was on General File, and then the Racing Commission came to me and they said, well look, we don't mind if you have this kind of an amendment but there are certain categories of people that we would like to still take a look at even though they're already licensed. And I said, fine, I don't have a problem with that. And so this amendment was drafted by them to include those categories of people where they wanted to take a further look. And so it's not a problem with me. They again assured me that there is no existing problem. Senator Warner is convinced there is an existing problem of some type but I have seen absolutely...no one has mentioned any evidence of any existing problem whatsoever.

SENATOR ABOUD: Okay, thank you.

SENATOR BEUTLER: Uh-huh.

SPEAKER BAACK: Thank you, Senator Abboud. Senator Nelson, for discussion.

SENATOR NELSON: Mr. Speaker, again, I checked with others more knowledgeable than I on this issue and they assured me that maybe the current licensee's need not be fingerprinted and so on but they certainly had a desire and a need to fingerprint new

employees. And I never asked what the reasons were excepting that it certainly is needed and that's all I can offer to you.

SPEAKER BAACK: Thank you, Senator Nelson. Is there anyone else wishing to discuss the Beutler amendment? Seeing no one, Senator Beutler, do you wish to close?

SENATOR BEUTLER: Yes, Mr. Speaker. I would just mention once again all this amendment does is it says with regard to the fingerprinting, those who are already employees, those who are already licensed don't have to be fingerprinted. And the rationale for that is simply there is no need to fingerprint them. They've been working with these people year after year, there's simply no need to fingerprint them. In addition to that, I would argue, and the reason that I take an interest in this sort of question is that you ought to give people who are in this situation some kind of notice of what their...what the requirements for the job are. If you have to go through fingerprinting, fine, but you ought to know that that's the case. And, most of all, I think we ought to treat all people consistently. There is a bill that's coming through this Legislature, it's come through the Education Committee of which I'm a member already, which asks that all of the teachers in the Omaha public school system be fingerprinted. But it doesn't say existing teachers. It says all those who will become teachers in the future. And so they're making a distinction. They will ask you, when that comes before you, to make the distinction between existing Omaha public school teachers and those who will be employed in the future. And it seems to me that even though these stable boys or whatever are in a profession that we all...not all of us but a lot of us look at as kind of shaky, that it is a legal profession and that they say have the same right to notice and they ought to be treated the same as far as fingerprinting and those kinds of things are concerned. And so I just want to bring this to your attention now and give you the opportunity to make that distinction between those who are already employed and those who are not already employed because in this one session, and I'm sure in the future, in future years, the same question will be before us. I think it's nice if we...it kind of preserves the element of justice and things if we treat these different professional groups the same. Now Senator Warrner indicated that these things should have been ironed out at the public hearing. You and I don't see bills, of course, oftentimes unless they come through our committees and until long after the public hearing. This amendment is on my

own initiative. It's not from the Racing Commission although I have sat down and discussed this with the Racing Commission and they have no objection to it. So, for all those reasons, I would move the adoption of the amendment.

SPEAKER BAACK: You've heard Senator Beutler's closing. We will now proceed to vote on the amendment offered by Senator Beutler. Those in favor vote aye, opposed vote no. We are voting on the amendment offered by Senator Beutler. Senator Beutler.

SENATOR BEUTLER: I think we've had too many amendments on this bill, Mr. Speaker. Things are going slow. I think, to speed it up, I would just ask for a call of the house and a roll call vote.

SPEAKER BAACK: We have a request for the house to go under call. All those in favor vote aye, opposed vote no. Record, Mr. Clerk.

CLERK: 13 ayes, 0 nays to go under call, Mr. President.

SPEAKER BAACK: The house is under call. All members please report to the Chamber and record your presence. The house is under call. The house is under call. All members please report to the Chamber and record your presence. The house is under call. Senator Byars, please record your presence. Senator Ashford, Chambers, Hefner, Rod Johnson, Labedz, Morrissey. Senator Nelson. Senators Robinson and Schimek. Senator Wesely. We are looking for Senator Wesely. While we're waiting for Senator Wesely, I might announce that we do have a number of bills that are on Select File today that do not have amendments at this time and my intention is before we adjourn today to go through those bills. So if you have any amendments for those, you should file them now. The bill numbers are 625, 853, 789, 57A, 67A, 142A, 410A and 782. We're looking for Senator Wesely. Senator Beutler, Senator Wesely is a long distance conference call. Do we need to wait for him or do you want to proceed? Proceed? You did ask for a roll call vote, correct? Roll call vote. This is a roll call vote on the amendment by Senator Beutler. Mr. Clerk.

CLERK: (Roll call vote taken. See pages 1435-36 of the Legislative Journal.) 13 ayes, 8 nays, Mr. President, on adoption of the amendment.

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SPEAKER BAACK: The amendment fails. Anything further on the bill, Mr. Clerk?

CLERK: Nothing further on the bill, Mr. President.

SPEAKER BAACK: We will go to the bill itself. We have a motion to advance, Senator Will.

SENATOR WILL: Mr. Speaker, I move the advancement of LB 200 to E & R for engrossment.

SPEAKER BAACK: You've heard the motion to advance. Those in favor say aye. Opposed no. It is advanced. The call is raised. We will now proceed to LB 422.

CLERK: Mr. President, the first amendment I have to 422 is by Senator Kristensen. (The Kristensen amendment appears on page 1436 of the Legislative Journal.)

SPEAKER BAACK: Senator Kristensen.

SENATOR KRISTENSEN: Thank you, Mr. Speaker. Just so I can check with the Clerk, is that the emergency clause amendment?

CLERK: Yes, sir, it is.

SENATOR KRISTENSEN: Thank you. Mr. Speaker, members of the body, this bill, LB 422, as we discussed on General File, is a fairly simple procedural matter where it would allow judgments which have been gained in a county court to be transferred to another county. And, currently, you have to go through the district court of the other county rather than going through the county court of that county. And the reason that that's a difficult or cumbersome thing to do is because of the procedures but also that each court is different. The county courts have uniform procedures, have uniform forms and rules. It's a much easier system to do that. The amendment that I place here is merely the emergency clause. After looking at it, there was no need for preparation or for a changing of forms or for the change of any printed procedure other than the allowing practitioners and people who have judgments to be able to collect those from county to county line. With that, I've added the emergency clause and would be happy to answer any questions. Thank you.



April 5, 1991

LB 200, 422, 663, 773, 795, 849

SPEAKER BAACK PRESIDING

SPEAKER BAACK: (Recorder not activated) ...George W. Norris Legislative Chamber. With us for the prayer this morning as Chaplain we have Pastor Jerry David from the Church on the Rock here in Lincoln. Pastor David.

PASTOR DAVID: (Prayer offered.)

SPEAKER BAACK: Thank you, Pastor David. Thanks for being with us. My understanding is we were going to have a special treat before we start our roll call this morning, but I don't see Senator Chizek right now. I thought he was going to sing our national anthem but I don't see him here. So I guess we will just go to roll call.

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

SPEAKER BAACK: Are there corrections to the Journal?

CLERK: Mr. President. (Read corrections found on page 1526 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BAACK: A job well done.

CLERK: Thank you, Mr. President

SPEAKER BAACK: I am so use to not having any corrections, I don't know what to say, you know. I am glad you caught the mistake. Okay, here we go. Any messages, reports, or announcements?

CLERK: Mr. President, Enrollment and Review reports LB 773 to Select File with E & R, and LB 795 to Select File with E & R. Signed by Senator Will as Chair. LB 200 and LB 422 are reported correctly engrossed. (See pages 1526-27 of the Legislative Journal.)

I have a Report of Registered Lobbyists for this past week required by statute. Amendments to be printed to LB 663 by Speaker Baack. Senator Lynch has amendments to LB 849. (See pages 1528-32 of the Legislative Journal.)

And, Mr. President, a new resolution by Senators Hillman and

May 30, 1991

LB 181A, 186, 186A, 200

SPEAKER BAACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 181A pass? All those in favor vote aye, opposed vote no. Have you all voted? Record, Mr. Clerk.

CLERK: (Record vote read. See page 2639 of the Legislative Journal.) 40 ayes, 2 nays, 1 present and not voting, 6 excused and not voting, Mr. President.

SPEAKER BAACK: LB 181A passes. We will go to LB 186.

CLERK: (Read LB 186 on Final Reading.)

SPEAKER BAACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 186 pass? All those in favor vote aye, opposed vote no. Have you all voted? Record, Mr. Clerk.

CLERK: (Record vote read. See page 2640 of the Legislative Journal.) 41 ayes, 0 nays, 2 present and not voting, 6 excused and not voting, Mr. President.

SPEAKER BAACK: LB 186 passes. We'll go to LB 186A.

CLERK: (Read LB 186A on Final Reading.)

SPEAKER BAACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 186A pass? All those in favor vote aye, opposed vote no. Have you all voted? Record, Mr. Clerk.

CLERK: (Record vote read. See page 2641 of the Legislative Journal.) 38 ayes, 0 nays, 5 present and not voting, 6 excused and not voting, Mr. President.

SPEAKER BAACK: LB 186A passes. We will go to LB 200.

CLERK: (Read LB 200 on Final Reading.)

SPEAKER BAACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 200 pass? All those in favor vote aye, opposed vote no. Have you all voted? Record, Mr. Clerk.

May 30, 1991

LB 200, 209, 209A, 400

CLERK: (Record vote read. See pages 2641-42 of the Legislative Journal.) 40 ayes, 0 nays, 3 present and not voting, 6 excused and not voting, Mr. President.

SPEAKER BAACK: LB 200 passes. We will go to LB 209E.

CLERK: Mr. President, Senator Withem, I have a motion on the bill from you but I understand you want to withdraw.

SPEAKER BAACK: It is withdrawn.

ASSISTANT CLERK: (Read LB 209E on Final Reading.)

SPEAKER BAACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 209 with the emergency clause attached pass? All those in favor vote aye, opposed vote no. Have you all voted? Record, Mr. Clerk.

ASSISTANT CLERK: (Record vote read. See page 2643 of the Legislative Journal.) The vote is 40 ayes, 1 nay, 2 present and not voting, 6 excused and not voting.

SPEAKER BAACK: LB 209 with the emergency clause attached passes. We will go to LB 209A.

ASSISTANT CLERK: (Read LB 209A on Final Reading.)

SPEAKER BAACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 209A pass? All those in favor vote aye, opposed vote no. Have you all voted? Record, Mr. Clerk.

ASSISTANT CLERK: (Record vote read. See pages 2643-44 of the Legislative Journal.) The vote is 40 ayes, 1 nay, 2 present and not voting, 6 excused and not voting.

SPEAKER BAACK: LB 209A passes. We will pass over 297 and 297A and we will go to LB 400.

ASSISTANT CLERK: (Read LB 400 on Final Reading.)

SPEAKER BAACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 400 pass? All those in favor vote aye, opposed vote no. Have you all voted? Record, Mr. Clerk.

May 30, 1991

LB 57, 57A, 85, 85A, 90, 90A, 114, 114A  
142A, 142, 181, 181A, 186, 186A, 200, 209  
209A, 400, 410, 410A, 420, 420A, 422, 433  
433A, 444, 457, 457A, 582, 663, 663A

is an ongoing debate on do you want to put things back into the budget once you've cut them. I think with that money now being over in the Governor's office there is really no need for LB 142 unless Senator Johnson actually wants to pursue additional funding for this program. LB 142 is intent language that is really not necessary. I think Senator Johnson has some other plans with LB 142A, regarding ethanol. I guess if you really want...the cleaner way to address that, which I would have a problem with addressing anyway on Final Reading, but maybe use this bill instead of LB 142A to do that. But, at this time, I would rise to oppose LB 142 and I withdraw the amendment at this time.

SPEAKER BAACK: The amendment is withdrawn. Mr. Clerk.

CLERK: (Read LB 142 on Final Reading.)

SPEAKER BAACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 142 pass? All those in favor vote aye, opposed vote no. Have you all voted? Record, Mr. Clerk.

CLERK: (Record vote read. See pages 2656-57 of the Legislative Journal.) 22 ayes, 18 nays, Mr. President, on the final passage.

SPEAKER BAACK: LB 142 fails. While the Legislature is in session and capable of transacting business, I propose to sign and do sign LB 57, LB 57A, LB 85, LB 85A, LB 90, LB 90A, LB 114, LB 114A, LB 181, LB 181A, LB 186, LB 186A, LB 200, LB 209, LB 209A, LB 400, LB 410, LB 410A, LB 420, LB 420A, LB 422, LB 433, LB 433A, LB 444, LB 457, LB 457A, LB 582, LB 663 and LB 663A. The next item, Mr. Clerk.

CLERK: Mr. President, Senator Rod Johnson would move to return LB 142A to Select File for a specific amendment. Senator, just...I have you withdrawing AM2098, right?

SENATOR R. JOHNSON: Yes.

CLERK: That we printed?

SENATOR R. JOHNSON: Yes.

CLERK: And offering AM2187.

May 30, 1991

LB 57, 57A, 85, 85A, 90, 90A, 114, 114A  
181, 181A, 186, 186A, 200, 209, 209A, 297  
400, 410, 410A, 420, 420A, 422, 433, 433A  
444, 457, 457A, 582, 615, 627A, 663, 663A

Record, Mr. Clerk.

CLERK: 9 ayes, 18 nays, Mr. President, on the motion to return.

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

CLERK: I do, Mr. President. Senator Moore has amendments to LB 627A to be printed; Senator Withem to LB 615. (See pages 2659-60 of the Legislative Journal.) And your Enrolling Clerk has presented to the Governor bills read on Final Reading this morning. (Re: LB 663, LB 663A, LB 57, LB 57A, LB 85, LB 85A, LB 90, LB 90A, LB 114, LB 114A, LB 181, LB 181A, LB 186, LB 186A, LB 200, LB 209, LB 209A, LB 400, LB 410, LB 410A, LB 420, LB 420A, LB 422, LB 433, LB 433A, LB 444, LB 582, LB 457 and LB 457A.)

That's all that I have at this time, Mr. President.

SPEAKER BAACK: Senator Coordsen, would you like to recess us till one-thirty? And I will announce that we will start on Select File right at one-thirty.

SENATOR COORDSEN: Yes, Mr. Speaker, I would move that we recess until one-thirty.

SPEAKER BAACK: You've heard the motion to recess till one-thirty. All those in favor say aye. Opposed no. We are recessed till one-thirty.

RECESS

SPEAKER BAACK PRESIDING

SPEAKER BAACK: Good afternoon and welcome to the George W. Norris Legislative Chamber. Roll call.

CLERK: I have a quorum present, Madam President, Mr. President, excuse me.

SPEAKER BAACK: Thank you. We will now proceed to Item 8 on the

May 31, 1991

LB 200, 444, 718  
LR 186

PRESIDENT MOUL: Still have a...someone wishing to speak on the issue. That was not closing, Senator Hall. Senator Chambers, do you wish to speak?

SENATOR CHAMBERS: Very briefly. Madam President, members of the Legislature, very briefly. There should then be 36 votes here today to advance the bill and these 36 should support it all the way. And if you don't, then I don't know why you didn't vote to kill it. Or is it too difficult to cast that kill vote and then you will sleep the advance vote? Senator Landis asked for a machine vote. When we get to it, I'm asking for a roll call vote and I have said all that I would have to say on it so I won't prolong the discussion.

PRESIDENT MOUL: If there is no one else wishing to speak on the issue, Senator Hall. We have a request for a call of the house. Have a motion to advance. All those in favor of a call of the house please vote aye, opposed nay. Record, Mr. Clerk.

CLERK: 33 ayes, 0 nays to go under call.

PRESIDENT MOUL: The house is under call. Senators, please check in. Would the senators please check in? The house is under call. Senator Rasmussen, please check in. Senator Schrock. Senator Rogers, please check in, and Senator Landis. Senator Rogers, please check in. We will proceed with roll call vote on the motion to advance LB 186. Mr. Clerk.

CLERK: (Roll call vote taken. See page 2739 of the Legislative Journal.) 34 ayes, 4 nays on the motion to advance.

PRESIDENT MOUL: LR 186 is advanced. I will raise the call. Items for the record, Mr. Clerk.

CLERK: Madam President, communication from the Governor to the Clerk. (Read communication regarding LB 200 and LB 444. See pages 2739-40 of the Legislative Journal.)

Senator Smith has amendments to LB 718 to be printed. (See page 2740 of the Legislative Journal.)

That's all that I have, Madam President.

PRESIDENT MOUL: Thank you, Mr. Clerk. Speaker Baack, do you wish to be recognized?