

FORTY-FIFTH DAY - MARCH 19, 2004**LEGISLATIVE JOURNAL****NINETY-EIGHTH LEGISLATURE
SECOND SESSION****FORTY-FIFTH DAY**

Legislative Chamber, Lincoln, Nebraska
Friday, March 19, 2004

PRAYER

The prayer was offered by Pastor Paul Witt, St. Mary's Catholic Church, Lincoln.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., President Heineman presiding.

The roll was called and all members were present except Senator Burling who was excused; and Senators Bromm, Brown, Cunningham, and Tyson who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the forty-fourth day was approved.

**SELECT COMMITTEE REPORTS
Enrollment and Review**

LEGISLATIVE BILL 973. Placed on Select File as amended.
(E & R amendment, AM7201, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE BILL 944. Placed on Select File.

(Signed) Ray Mossey, Chairperson

GENERAL FILE

LEGISLATIVE BILL 1090. Considered.

Advanced to E & R for review with 33 ayes, 0 nays, 11 present and not voting, and 5 excused and not voting.

LEGISLATIVE BILL 1091. Title read. Considered.

The Standing Committee amendment, AM3075, found on page 1051, was considered.

Senator Raikes offered the following amendment to the Standing Committee amendment:

AM3232

(Amendments to Standing Committee amendments, AM3075)

- 1 1. On page 2, line 27, strike "lines 1 and 8" and insert
- 2 "line 1".
- 3 2. On page 3, line 2, after the semicolon insert "in
- 4 line 10 after the period insert 'For fiscal years 2005-06 and
- 5 2006-07, the Education Innovation Fund shall be allocated as
- 6 follows: The first one million dollars each fiscal year shall be
- 7 allocated by the Governor, and the remaining amount shall be
- 8 allocated to the General Fund after operating expenses for the
- 9 Excellence in Education Council are deducted.';".

Pending.

ANNOUNCEMENT

The Chair announced today is Senator Bromm's birthday.

GENERAL FILE

LEGISLATIVE BILL 1091. The Raikes pending amendment, AM3232, found in this day's Journal, to the Standing Committee amendment, was renewed.

SENATOR CUDABACK PRESIDING

Senator Raikes withdrew his amendment.

Senator Wehrbein moved for a call of the house. The motion prevailed with 21 ayes, 0 nays, and 28 not voting.

The Standing Committee amendment was adopted with 37 ayes, 1 nay, 9 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Jensen renewed his pending amendment, AM2983, found on page 956.

Pending.

LEGISLATIVE BILL 1047. Title read. Considered.

The Standing Committee amendment, AM2298, found on page 423, was adopted with 38 ayes, 0 nays, 8 present and not voting, and 3 excused and not voting.

Senator Redfield withdrew her pending amendment, AM2378, found on page 481.

Senator Quandahl renewed the Quandahl et al. pending amendment, AM3088, printed separately and referred to on page 1063.

The Quandahl et al. amendment was adopted with 38 ayes, 0 nays, 6 present and not voting, and 5 excused and not voting.

Advanced to E & R for review with 38 ayes, 0 nays, 6 present and not voting, and 5 excused and not voting.

RESOLUTIONS

LEGISLATIVE RESOLUTION 267. Introduced by Aguilar, 35.

PURPOSE: LB 849 was introduced during the Ninety-eighth Legislature, Second Session, 2004, to guarantee consumers a choice of automotive repair shops for reasonably priced repairs without suffering a financial penalty from their insurer. The bill would have required that an insurer not recommend any particular repair shop unless a referral is requested by the claimant or the claimant has been informed of his or her right to choose his or her own repair shop and would have prohibited an insurer from asking a claimant who has already chosen a repair shop, to select a different repair shop. The bill further provided that any insurer that, by policy, suggests or recommends a motor vehicle be repaired at a particular automotive repair shop shall (a) prominently disclose such contractual provision at the time the insurance is applied for and (b) if the claimant elects a shop of his or her choice, the insurer shall not limit or discount the reasonable repair costs based on charges that would have been incurred had the vehicle been repaired by the insurer's chosen automotive repair shop.

The purpose of this study is to examine issues related to LB 849 and related current law.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 268. Introduced by Landis, 46.

PURPOSE: The purpose of this resolution is to study whether Nebraska should enact the Uniform Securities Act as promulgated by the National Conference of Commissioners on Uniform State Laws in 2002. In order to carry out the purpose of this resolution, the committee should seek and consider the input of the Department of Banking and Finance and interested persons as it deems necessary and beneficial.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

MESSAGE FROM THE GOVERNOR

March 19, 2004

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol, Room 2018
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 16, 75, 279, 279A, 323, 449, 449A, 560e, 560A, 818, 820e, 821, 835, 836e, 878e, 911e, 915, 927, 936, 937, 940e, 947, 950, 961, 1033e, 1069e, and 1179 were received in my office on March 16, 2004.

These bills were signed and delivered to the Secretary of State on March 19, 2004.

Sincerely,
(Signed) Mike Johanns
Governor

AMENDMENTS - Print in Journal

Senator Tyson filed the following amendment to LB 599:
AM3244

(Amendments to AM2502)

1. On page 1, line 8, after "regulation" insert "adopted
2. pursuant to the Negotiated Rulemaking Act".

- 3 2. On page 2, line 1, after "regulations" insert
 4 "adopted pursuant to the Negotiated Rulemaking Act".
 5 3. On page 2, lines 14 and 25; page 3, line 5; page 6,
 6 lines 13 and 24; and page 7, line 4, after "Act" insert "but shall
 7 not exceed the Type V, column B, limitations set forth by the
 8 allowable height and building areas table in the state building
 9 code adopted in section 71-6403".

Senator Johnson filed the following amendment to LB 1099:
 AM3093

- 1 1. On page 4, line 2, strike "four dollars" and insert
 2 "three dollars and fifty cents".

Senator Wehrbein filed the following amendment to LB 1089:
 AM3263

(Amendments to Standing Committee amendments, AM3033)

- 1 1. Insert the following new section:
 2 "Sec. 166. Laws 2003, LB 407, section 173, is amended to
 3 read:
 4 Sec. 173. AGENCY NO. 52 -- STATE BOARD OF AGRICULTURE
 5 Program No. 539 - State Board of Agriculture
 6

	FY2003-04	FY2004-05
7 GENERAL FUND	0	0
8 PROGRAM TOTAL	0	0
9 <u>GENERAL FUND</u>	<u>-0-</u>	<u>306,208</u>
10 <u>PROGRAM TOTAL</u>	<u>-0-</u>	<u>306,208</u>

 11 2. Correct the repealer accordingly.
 12 3. Renumber the remaining sections accordingly.

GENERAL FILE

LEGISLATIVE BILL 1091. The Jensen pending amendment, AM2983, found on page 956 and considered in this day's Journal, was renewed.

SPEAKER BROMM PRESIDING

The Jensen amendment was adopted with 26 ayes, 4 nays, 9 present and not voting, and 10 excused and not voting.

Advanced to E & R for review with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

LEGISLATIVE BILL 1092. Title read. Considered.

The Standing Committee amendment, AM2921, printed separately and referred to on page 1053, was adopted with 26 ayes, 0 nays, 13 present and not voting, and 10 excused and not voting.

Advanced to E & R for review with 26 ayes, 0 nays, 13 present and not

voting, and 10 excused and not voting.

LEGISLATIVE BILL 514. Title read. Considered.

The Standing Committee amendment, AM2706, found on page 795, was adopted with 32 ayes, 0 nays, 8 present and not voting, and 9 excused and not voting.

Advanced to E & R for review with 36 ayes, 0 nays, 5 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 917. Title read. Considered.

SENATOR CUDABACK PRESIDING

Advanced to E & R for review with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 1144. Title read. Considered.

Senator Kruse offered the following amendment:

AM3242

- 1 1. Insert the following new section:
- 2 "Sec. 2. Section 13-1214, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 13-1214. The department shall certify biennially the
- 5 amount of ~~money necessary to fully fund the state's portion of the~~
- 6 intercity bus system assistance eligible for funding program
- 7 ~~established~~ under section 13-1213."
- 8 2. On page 2, strike beginning with "money" in line 4
- 9 through "of" in line 5, show as stricken, and insert "operating
- 10 costs eligible for funding under".
- 11 3. On page 7, line 8, strike the first "the"; and in
- 12 line 20 after "13-1210" insert ", 13-1214,".
- 13 4. Renumber the remaining sections accordingly.

The Kruse amendment was adopted with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

Advanced to E & R for review with 26 ayes, 0 nays, 15 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 1071. Title read. Considered.

The Standing Committee amendment, AM2999, found on page 1049, was considered.

Senator Wehrbein renewed his pending amendment, AM3203, found on page 1117, to the Standing Committee amendment.

The Wehrbein amendment was adopted with 28 ayes, 0 nays, 13 present and not voting, and 8 excused and not voting.

The Standing Committee amendment, as amended, was adopted with 33 ayes, 0 nays, 8 present and not voting, and 8 excused and not voting.

Advanced to E & R for review with 34 ayes, 0 nays, 7 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 297. Title read. Considered.

The Standing Committee amendment, AM3185, found on page 1109, was adopted with 25 ayes, 0 nays, 14 present and not voting, and 10 excused and not voting.

Advanced to E & R for review with 26 ayes, 0 nays, 13 present and not voting, and 10 excused and not voting.

AMENDMENTS - Print in Journal

Senators Vrtiska and Hartnett filed the following amendment to LB 1241:
AM3256

(Amendments to Standing Committee amendments, AM2818)

- 1 1. In page 1, line 6, strike "9,006.74" and insert
- 2 "5,019.54"; and in line 9 strike "16,786.24" and insert
- 3 "12,799.04".

Senator Vrtiska filed the following amendment to LB 1241:
AM3257

(Amendments to Standing Committee amendments, AM2818)

- 1 1. On page 1, line 11, before "Tort" insert "Tort Claim
- 2 No. 01-663 and Tort Claim No. 01-770, against the Department of
- 3 Roads, pay to Joseph S. Daly and St. Paul Fire and Marine Company,
- 4 10404 Essex Court, Suite 100, Omaha, NE 68114, out of the
- 5 Department of Roads Operations Cash Fund. 200,000.00".
- 6 2. On page 5, line 25, strike "4,795,893.30" and insert
- 7 "4,995,893.30"; and in line 26 strike "4,908,657.69" and insert
- 8 "5,108,657.69".

Senator Landis filed the following amendment to LB 1083:
AM3262

(Amendments to FA1574)

- 1 1. On page 10, line 15, strike "is authorized to" and
- 2 insert "may"; in line 17 after "center" insert "only"; in line 18
- 3 after "center" insert "behavioral health"; and in line 24 after
- 4 "services" insert ", except that the division shall not cease the
- 5 operation of any regional center unless the Executive Board of the
- 6 Legislative Council by two-thirds vote of its members provides

7 legislative approval to close a regional center or centers".

Senator Landis filed the following amendment to LB 973:
(Amendment, AM3225, is printed separately and available in the Bill Room, Room 1104.)

RESOLUTIONS

LEGISLATIVE RESOLUTION 269. Introduced by Louden, 49.

PURPOSE: The purpose of this resolution is to study issues regarding the availability and affordability of liability insurance coverage for persons engaged in equine activities as defined in section 25-21,250.

In order to carry out the purpose of this resolution, the committee should seek and consider as it deems necessary and beneficial the input of interested persons and should request the assistance of the Department of Insurance in the compilation and analysis of pertinent data and information from relevant sources.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 270. Introduced by Louden, 49.

PURPOSE: The purpose of this resolution is to study issues regarding the affordability of workers' compensation coverage for smaller agriculturally related businesses and enterprises that are assigned risk employers as defined in and subject to section 48-146.01.

In order to carry out the purpose of this resolution, the committee should seek and consider as it deems necessary and beneficial the input of interested persons and should request the assistance of the Department of Insurance in the compilation and analysis of pertinent data and information from relevant sources.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Banking, Commerce and Insurance Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative

Council or Legislature.

Referred to the Executive Board.

LEGISLATIVE RESOLUTION 271. Introduced by Smith, 48.

WHEREAS, the 2004 Minatare High School LifeSmarts Team comprised of Heather Kreiling, Russ Thayer, Desi Arends, Josh Garza, and Daniel Sandoz recently won the state competition held in Kearney, Nebraska; and

WHEREAS, the 2004 team victory is the third State LifeSmarts Competition won in a row by the Minatare High School LifeSmarts Team and for the third year in a row the team has won the honor of representing the State of Nebraska at the National LifeSmarts Competition in Chicago in April, 2004; and

WHEREAS, the LifeSmarts program bills itself as "the ultimate consumer challenge" having been created by the National Consumers League to develop and strengthen the consumer and marketplace skills of high school students before they begin their lives as adult citizens; and

WHEREAS, Coach Candace Frey and the members of the 2004 Minatare High School LifeSmarts Team deserve recognition and commendation not only for winning the 2004 state competition but also for perpetuating a tradition of excellence established by the previous Minatare LifeSmarts teams; and

WHEREAS, the accomplishments of the 2004 Minatare High School LifeSmarts state champions and the two preceding Minatare LifeSmarts state champions are a testament to the skill, talent, hard work, and determination of the teams, the excellent coaching, and the unwavering support of Minatare High School's parents, students, teachers, staff, and administration.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-EIGHTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Legislature congratulates the members of the 2003-2004 Minatare High School LifeSmarts Team and their coach, Candace Frey, for their outstanding accomplishment.

2. That a copy of this resolution be sent to Minatare High School LifeSmarts Team and Coach Candace Frey.

Laid over.

REPORTS

The following reports were received by the Legislature:

Fiscal Office, Legislative

Re-certification of General Fund net receipts for fiscal year beginning July 1, 2003. Monthly receipt estimates derived from the annual net receipt estimate of the Economic Forecasting Advisory Board produced

February 27, 2004

Property Assessment and Taxation, Department of
2003 Annual Report

Retirement Systems, Public Employees

2004 Annual Report to the Legislative Retirement Committee

Revenue, Department of

Employment and Investment Growth Act, Employment Expansion and Investment Incentive Act (including Enterprise Zone Act), Quality Jobs Act, Rural Economic Opportunities Act, and Invest Nebraska Act (LB 775, LB 1124, LB 608, LB 829, LB 936, and LB 620)

Re-certification of General Fund net receipts for fiscal year beginning July 1, 2003. Monthly receipt estimates derived from the annual net receipt estimate of the Economic Forecasting Advisory Board produced February 27, 2004

REPORT OF REGISTERED LOBBYISTS

Following is a list of all lobbyists who have registered as of March 18, 2004, in accordance with Section 49-1481, Revised Statutes of Nebraska. Additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

McNally-Schuller, Lynne
Horsemen Benevolent & Protective Association

VISITORS

Visitors to the Chamber were 42 fourth-grade students and teachers from Southern Elementary School, Blue Springs; 25 eighth-grade students and teacher from Lexington; 50 fourth-grade students and teachers from Pershing Elementary School, Lexington; Paul Borzekofski from Wymore; Landon Haack from Dix; 30 members of First Baptist Church from Kearney; 33 fourth-grade students and teacher from Messiah Lutheran School, Lincoln; 14 second- through eighth-grade students, teachers, and sponsors from St. Agnes School, Alliance; and Adina Choat from St. Edward.

ADJOURNMENT

At 1:53 p.m., on a motion by Senator Raikes, the Legislature adjourned until 9:00 a.m., Monday, March 22, 2004.

Patrick J. O'Donnell
Clerk of the Legislature